

AFTER THE BEEF RECALL: EXPLORING GREATER TRANSPARENCY IN THE MEAT INDUSTRY

HEARING

BEFORE THE
SUBCOMMITTEE ON DOMESTIC POLICY
OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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AFTER THE BEEF RECALL: EXPLORING GREATER TRANSPARENCY IN THE MEAT IN- DUSTRY

THURSDAY, APRIL 17, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:05 p.m., in room 2154, Rayburn House Office Building, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Kucinich, Cummings, Watson, Tierney, and Issa.

Staff present: Jaron R. Bourke, staff director; Noura Erakat, counsel; Jean Gosa, clerk; Charisma Williams, staff assistant; Cate Veith, legislative assistant, Office of Congressman Dennis J. Kucinich; Leneal Scott, information systems manager, full committee; Alex Cooper, minority professional staff member; Larry Brady, minority senior investigator and policy advisor; and Meredith Liberty, minority staff assistant and correspondence coordinator.

Mr. KUCINICH. The Subcommittee on Domestic Policy of the Committee on Oversight and Government Reform will now come to order. Today's hearing will explore how transparency can enhance compliance with humane handling and food safety laws in the Nation's slaughterhouses. We will also examine the means for achieving such transparency.

Without objection, the Chair and the ranking minority member have 5 minutes to make opening statements followed by opening statements not to exceed 3 minutes by any other Members who seek recognition. Without objection, Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record.

In January, American consumers watched the Humane Society undercover video with horror. They saw cows enduring simulated drownings, being pushed by forklifts and dragged by chains, cows that for many of the viewers would become the protein in their families' meals. For these consumers this was probably the first time they were bearing witness to what happens behind slaughterhouse walls. The impact of their national gaze was tremendous. The USDA oversaw the largest voluntary beef recall in U.S. history.

In press briefings concerning the beef recall, USDA officials repeatedly affirmed that the incidents at Westland/Hallmark rep-

resented an aberration in the meat industry. Dr. Kenneth Petersen said, "Food Safety Inspection Services believes this to be an isolated incident of egregious violations to humane handling requirements and the prohibition of non-ambulatory, disabled cattle from entering the food supply."

However, upon investigation the subcommittee discovered that USDA had conducted two audits at Westland/Hallmark in the past 3 years, one in December 2005 and again in May 2007. The 2005 audit cited minimal infractions. In 2007, the USDA noted no infractions and instead gave Westland/Hallmark a faultless report. Yet only a few months later a Humane Society undercover investigation revealed the USDA's findings were a dismal reflection of reality at Westland/Hallmark.

The contrast between the Humane Society's investigation and the USDA audits raises significant questions. Did the USDA audit consider actual practices at the plant or the company paperwork assertions about practices instead? In general, does the USDA rely upon direct evidence or accompanying assertions? Are the abuses documented by the Humane Society but missed by the USDA really unique to this plant? How reliable are USDA's assurances about other plants when its auditors failed to discover the widespread violations at the Westland/Hallmark plant?

Then again perhaps USDA knows more than has been made public. We will hear from the head of the Food Safety Inspectors Union. He himself has been an FSIS inspector for 22½ years and he tells us that there is a severe shortage of inspectors, which often results in inadequate or incomplete inspections. And he tells us something else, too, there is a suppression of inspectors who blow the whistle on unsafe practices and policies.

In today's hearing we will examine how the Humane Society's undercover video is an object lesson in the value of transparency in shaking up a company, a regulator in an industry to improve compliance with and enforcement of humane handling and food safety laws in the Nation's slaughterhouses. We will consider how we might encourage greater transparency as a means to improve both industries compliance with the laws and USDA's enforcement of them.

The Chair would be pleased to recognize either Mr. Tierney or Mr. Cummings for an opening statement.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

**Opening Statement
Dennis Kucinich, Chairman
Domestic Policy Subcommittee
Oversight and Government Reform Committee
Hearing on Adequacy of USDA Oversight of Federal Slaughter
Plants
April 17, 2008
2154 Rayburn HOB
1:00 P.M.**

Good afternoon and welcome.

In late January, American consumers watched the Humane Society undercover video with horror. They saw cows enduring simulated drowning; being pushed by fork lifts, and dragged by chains—cows that for many of the viewers would become the protein in their families' meals. For these consumers, this was probably the first time that they were bearing witness to what happens behind slaughterhouse walls. The impact of their national gaze was tremendous. The USDA oversaw the largest voluntary beef recall in U.S. history.

In press briefings concerning the beef recall, USDA officials repeatedly affirmed that the incidents at Westland/Hallmark represent an aberration in the meat industry. Dr. Kenneth Petersen said "Food Safety Inspection Services ("FSIS") believes this to be *an isolated incident* of egregious

violations to humane handling requirements and the prohibition of non-ambulatory disabled cattle from entering the food supply.”

However, upon investigation, the Subcommittee discovered that USDA had conducted two audits at Westland/Hallmark in the past three years—once in December 2005 and again in May 2007. The 2005 audit cited minimal infractions. In 2007, the USDA audit noted no infractions and instead gave Westland/Hallmark a faultless report. Yet, only a few months later, a Humane Society undercover investigation revealed that the USDA’s findings were a dismal reflection of the reality at Westland/Hallmark.

The contrast between the Humane Society’s investigation and the USDA audits raises significant questions: Did the USDA audit consider actual practices at the plant, or the company’s paperwork assertions about its practices instead? In general, does the USDA rely upon direct evidence or company assertions? Are the abuses documented by the Humane Society but missed by USDA really unique to this plant? How reliable are USDA’s assurances about other plants when its auditors failed to discover the widespread violations at the Westland/Hallmark plant?

Then again, perhaps USDA knows more than it has made public? We will hear from the head of the food safety inspectors union. He himself

has been a FSIS inspector for 22 and half years, and he tells us that there is a severe shortage of inspectors which often results in inadequate or incomplete inspections. And he tells us something else too: there is suppression of inspectors who blow the whistle on unsafe practices and policies.

In today's hearing, we will examine how the Humane Society's undercover video is an object lesson in the value of transparency in shaking up a company, a regulator and an industry to improve compliance with and enforcement of humane handling and food safety laws in the nation's slaughterhouses. And we will consider how we might encourage greater transparency as a means to improve both industries' compliance with the laws and USDA's enforcement of them.

Mr. TIERNEY. Thank you, Mr. Chairman. I have no particular opening statement. I am anxious to hear the witnesses, but I thank you for having this hearing.

Mr. KUCINICH. Thank you. Mr. Cummings.

Mr. CUMMINGS. I will be brief. I thank you for holding this vitally important hearing to examine the compliance with humane handling and food safety laws in the Nation's slaughterhouses. The American people expect that the meat that they purchase at local grocery stores and the butcher shops is safe for consumption, as they should. And so the public was rightfully disturbed to learn of the horrific practices by the Hallmark/Westland Meat Packing Co. of California.

The video of the plant that was released to the media reviewed inhumane handling of downed cattle and raised serious concerns about tainted meat making its way into our food supply and to the dinner tables of Americans. Public outcry following the incident led to the swift action by the government and by the company itself. Hallmark/Westland voluntarily recalled 143 million pounds of fresh and frozen beef dating back to February 1, 2006. I'm glad, as I know many Americans are, that the potentially tainted meat will not make it to our families' kitchen tables.

But this recent incident raises larger questions about whether it was an isolated event involving just one plant or part of a more widespread problem in our meat packing industry. All indicators, Mr. Chairman, lead one to conclude the latter. Investigations by the Government Accountability Office and the U.S. Department of Agriculture Inspector Generals reveal serious concerns with regard to the way that we regulate the meat packing industry. The time is long overdue for us to strengthen practices at the USDA and to explore new methods of oversight such as video surveillance.

To be sure, the recent incident at Hallmark/Westland Meat Packing Co. is nothing new. The 2001 book, *Fast Food Nation*, reported that similar conditions with regard to downed cows are present at meat packing plants across the country. Not since Upton Sinclair's eye opening 1906 book, *The Jungle*, have we seen such widespread concerns raised about our Nation's food supply.

Mr. Chairman, our response today must be just as aggressive as it was back then. So I look forward to the testimonies of today's witnesses, and I yield back.

Mr. KUCINICH. Thank you very much, Mr. Cummings, for your statement. I appreciate the presence of the Members here. Mr. Issa is expected momentarily. As ranking member he will be entitled to an opening statement.

If there are no additional opening statements, the subcommittee will now receive testimony from the witnesses before us today. So I want to start by introducing our first panel.

I want to start by introducing our first panel. Dr. Richard Raymond was first appointed as Under Secretary for Food Safety in 2005. In this position Dr. Raymond is responsible for overseeing the policies and programs of the Food Safety and Inspection Service [FSIS]. He chairs the U.S. Codex Steering Committee, which provides guidance to U.S. Delegations to the Codex Commission. Prior to joining USDA, Dr. Raymond served as the Director of the Nebraska Department of Health and Human Services Regulation

and Licensure Division, where he oversaw regulatory programs involving health care and environmental issues. A life long resident of Nebraska, Dr. Raymond practiced medicine in rural Nebraska for 17 years.

Mr. Stan Painter is the chairman of the National Joint Council of Food Inspection Local Unions that is affiliated with the American Federation of Government Employees [AFL-CIO].

The National Joint Council represents some 6,000 non-supervisory inspectors who work for the Food Safety and Inspection Service of the U.S. Department of Agriculture. He has been an FSIS inspector for nearly 23 years and served as the chairman of the Joint Council for nearly 5 years. Prior to coming to work for FSIS, he worked in the poultry processing industry for 3 years.

Linda—and how do you pronounce that?

Ms. SHAMES. Lisa Shames.

Mr. KUCINICH. Shames. Linda Shames is the GAO's Director for Food Safety and Agriculture Issues. In that capacity she oversees GAO evaluations on livestock health, USDA and FDA oversight and management capacity, farm program payments, agricultural conservation and many other issues. Last year she managed the designation of the Federal Oversight of Food Safety on GAO's high risk list. She has worked at GAO since 1978.

Dr. Temple Grandin has worked as a consultant to the meat industry for over 30 years. She has either designed animal handling equipment or worked on training employees for many major meat companies. She's also a professor of animal science at Colorado State University, where she teaches a course on livestock handling and is author of the American Meat Institute Guidelines. She has received numerous awards for her work in animal welfare groups. Some of her awards are from the American Meat Institute and the Humane Society of the United States. She is author of the New York Times best seller on animal behavior, livestock handling and slaughter, called *Animals in Translation*.

Thank you for appearing to the subcommittee today. It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I would ask that all the witnesses please rise.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect the witnesses answered in the affirmative.

I'm asking that each of the witnesses give a brief summary of their testimony. I would ask that you keep in mind that your entire written statement will be included in the hearing record, but try to keep your summary under 5 minutes in duration. And so I would ask you to watch the clock, because sometimes these machines are not the most effective. We're going to start with Dr. Grandin who has some flight obligations, and we want to take note of that and we'd like you to be so kind as to begin with your testimony. Please stay close to that mic so everyone can hear you. Please proceed.

STATEMENTS OF DR. TEMPLE GRANDIN, PROFESSOR, COLORADO STATE UNIVERSITY; DR. RICHARD RAYMOND, UNDER SECRETARY FOR FOOD SAFETY, FOOD SAFETY AND INSPECTION SERVICE, USDA; STAN PAINTER, CHAIRMAN, NATIONAL JOINT COUNCIL OF FOOD INSPECTION LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; AND LISA SHAMES, DIRECTOR, GAO, NATURAL RESOURCES AND THE ENVIRONMENT

STATEMENT OF DR. TEMPLE GRANDIN

Ms. GRANDIN. Thank you very much. I feel honored to be here. I have worked with the meat industry for over 30 years as an industry consultant and in the last 18 years as professor of animal science, and I have seen a lot of changes. When I first started out in the industry in the 1970's, 1980's and early 1990's, things were really bad. And I want to add that video at Hallmark just made me absolutely sick.

One of my biggest frustrations as an equipment designer is getting people to operate equipment correctly. Good equipment gives you the tools for good handling, but you have to have the management to go with it.

In 1996, the USDA hired me to do a survey of practices in over 20 plants in the United States, and only 30 percent of the big plants were able to stun 90 percent of the cattle on the first shot. That's just absolutely atrocious.

The No. 1 problem was maintenance. They just didn't take care of the equipment. In 1999, McDonald's Corp. and Wendy's and Burger King—I don't know if Burger King was in 1999 but Wendy's and McDonald's was—hired me to institute their auditing program and I used the objective scoring system that I originally developed for the USDA.

The thing is we need to get much more even enforcement and have clear standards. I mean right now what does excessive prod use mean? That's not clear. One person's excessive prod use would be you'd use it on a few animals, another person's excessive prod use would be to poke every pig once with it, there is too much variation. You can read the entire objective scoring system in my testimony handout, but it measures outcomes of bad practices, animals can fall down because the floor is slippery or they are too old or they've been handled roughly and they have been poked too many times with prods.

I want to address the issue of announced versus unannounced audits. In the beginning when we started, like in 1999, 2000, it didn't make any difference because plants didn't know how to behave. Today plants know what they are supposed to be doing so they can behave well during an audit and sometimes the auditors have gotten paid not so well. And basically I have found there's kind of two different sectors in the industry, ones that behave well all the time and ones that don't. And where you have the problem is mainly in the handling.

I do want to add that the overall—there has been an overall improvement trend since the early 90's. When we implemented the McDonald's and Wendy's audits there was big improvements compared to what we had before. I can remember working night shift

on the plants and it was just four broken stun guns out there. I mean that was the enforcement. It was disgusting.

I want just to overview some of my experiences with using video. One of my first experiences was around 20 years ago at a pork plant. They installed a closed circuit camera over the pig shoot area with a TV down in the manager's office. And they know that people are watching all the time. Then a few years ago another one of the plants had their own internal audit system—internal video camera system, and when I did prod scoring I was standing there. It was lower than when I was looking through the video camera.

I want to just end up very quickly because some kind of buzzer is going off.

Mr. KUCINICH. Listen, that's—you have a couple more minutes.

Ms. GRANDIN. That's what I figured. I figured I had a couple more minutes.

Mr. KUCINICH. That buzzer is not for you.

Ms. GRANDIN. Oh, OK, OK. But on the—the stunning score stayed about the same between the video and being—that's so dependent on the maintenance of the equipment, but the prod score went up some. Now I want to add it didn't go back to the bad old days of the 1980's and early 1990's. I have done some consulting with Arrowsight, on their over-the-Web video auditing.

I just want to conclude that I recommend that the USDA work on more objective scoring, preferably some numerical scoring systems so we get more even enforcement because how does an inspector interpret excessive prod use. And there are some management people that need oversight, and there are a lot of good people out there that do a really good job of running their plants.

And I'm really sorry that I do have to go to the airport. There are 500 people waiting for me in Atlanta, waiting for me tonight, and they would be very upset if I didn't show up. I'm going to have to do written questions. I am going to give you my phone number if someone wants to call me, (970) 229-0703, and leave a message so I can call you back. I'm really sorry I have to go to the airport. I had to jam this hearing in between two other engagements.

I thank you for having me.

[The prepared statement of Ms. Grandin follows:]

*Testimony
Of
Temple Grandin*

Grandin Livestock Handling Systems, Inc.
2918 Silver Plume Drive, Unit C3
Fort Collins, CO 80526
970-229-0703 – Cheryl.miller@colostate.edu

***Domestic Policy Subcommittee
Oversight and Government Reform Committee***

*Thursday, April 17, 2008
2154 Rayburn HOB
2:00 P.M.*

***“After the Beef Recall: Exploring Greater
Transparency in the Meat Industry”***

I have worked for over 30 years to improve the treatment of animals at slaughter plants. Half the cattle and 25% of the pigs are handled in facilities I have designed. One of my biggest frustrations throughout my career has been getting people to manage and operate my equipment correctly. Good equipment provides the tools that make humane calm handling of animals possible, but it must be combined with good management. The recent video of dairy cows being tortured with a forklift made me sick. The abuse of cattle at this plant was 100% caused by a lack of employee supervision and a complete failure of the USDA inspectors. The Humane Slaughter Act prohibits dragging of crippled animals, and it was not enforced.

Over the years the biggest problem I have observed with the USDA is inconsistency and great variation on how different inspectors enforce humane slaughter regulations. One will be super strict to the point of being totally unreasonable and another might be totally lax. Part of the problem is that with the exception of the regulation on dragging crippled animals, many of the other regulations are vague and subject to different interpretations. Inspectors need better training and clear directives to improve consistency. It is impossible for different inspectors to be consistent when vague terminology is used such as “unnecessary pain and suffering.”

The present system of USDA inspection is like having traffic police giving out speeding tickets when they think cars are speeding. Police departments are able to enforce the speed limits in a uniform manner because the officer MEASURES a car's speed with radar. The decision to pull a car over is based on a measurement, not subjective judgment of speed. For other traffic rules such as being in the wrong lane, the rules are very clearly written so that the officers will interpret them the same way.

When standards and regulations are being written, there are two types of standards. The first are practices that are simply prohibited such as dragging crippled downer animals. The second type are animal based outcome standards where percentage based numerical scoring is very effective. For example, the percentage of animals that fall during handling can be caused by either a slick floor or rough handling by people. Falling is an outcome of bad equipment, poorly trained people, or very weak cows that should have never been brought to the plant. Measuring the percentage of cows that fall at a plant is a sensitive indicator of three different types of problems. The percentage of cattle falling can never be zero, so falling cannot be banned, but it should be kept at a very low level.

In 1996 I was hired by USDA to do a survey of slaughter plants to determine how well animals were handled and stunned. Stunning is the process where animals are rendered unconscious before slaughter procedures. Instead of just doing a subjective evaluation, numerical scoring was used for the evaluation of 24 beef, pork, and veal plants in 10 different states. The numerical scoring system that is now the American Meat Institute guideline was developed during my USDA funded survey. In each plant, I observed 100 animals and they were scored on the following variables.

1. Percentage of animals stunned properly with one application of the stunner.
2. Percentage rendered insensible prior to hoisting to the bleed rail. For regulatory purposes this must be 100%.
3. Percentage falling during handling.
4. Percentage moved with an electric prod.
5. Percentage vocalizing (moos, bellows or squeal) in the stunning area. Vocalization is a sensitive measure of distress and pain. In 1996, the worst plant had 35% of the cows vocalizing. Today the best plants have 0 to 3% vocalizing.

The survey results showed that there were many problems. Only 30% of the plants could stun 95% of cattle correctly. The biggest problem was equipment maintenance. Today, the best plants can stun 97% to 98% of the cattle correctly with one captive bolt shot. Animals that are missed are immediately reshot. This scoring system became the basis of the American Meat Institute Animal Handling Guidelines that I authored. It is being used by major restaurant chains to audit animal welfare of their suppliers. www.animalhandling.org. The advantage of using numbers is that it prevents practices from slowly deteriorating with nobody realizing it. I have seen this happen many times with the USDA. There will be a big crisis and a big crackdown. Since the enforcement is subjective, old bad practices have a way of slowly returning. McDonald's, Wendy's, and Burger King have been using the numerical scoring system for nine years. This has resulted in great improvements. The Hallmark, Westland plant where the atrocious treatment of cows occurred, does not supply these three companies. The conditions at this plant are a horrible black eye for the industry. The many plant managers who are doing a good job were sickened.

I recommend that the USDA adopt numerical scoring to make enforcement of the Humane Slaughter Act more uniform and to uphold higher standards. Many progressive inspectors are already informally using it. For the practices that are prohibited, a handbook of very clear guidelines is needed for enforcement. It would list prohibited practices where there is a zero tolerance. The AMI guideline prohibits acts of abuse and they are listed in the guide. There may be disagreements about where the critical limits should be set for acceptable scores with numerical scoring. That may need to be discussed. When slaughter plants are required to maintain certain numerical scores, it prevents them from slowly shifting back to bad practices.

When McDonald's, Wendy's, and Burger King first started using the scoring system, there were very little differences between announced and unannounced audits. Acts of animal abuse often occurred while an auditor was watching because the plant manager thought he was just doing normal practice. Bad had become normal. During the last few years slaughter plants now fall into two categories: 1) The plants where they always have good animal handling and stunning practices even when nobody is watching and 2) The plants where they behave properly when they are being watched and abusive treatment of livestock occurs when nobody is around watching. This separation of slaughter plants into two categories occurred because now plant management knows what they are supposed to do.

My Experiences with Video Cameras

In the 1980's, one of my client plants installed a video camera over the pig chutes that led to the stunner. A TV monitor was installed in the manager's office. This greatly improved pig handling and reduced electric prod use. More recently I have been in beef plants that had their own internal video system. I collected data on electric prod use both standing where people could see me and with the video camera. Prod use was higher when viewed through the video, but it was still lower compared to the bad old days before the restaurants started doing audits. Observations indicate that handling seems to be more variable than beef stunning. The reason for this is that effective captive bolt stunning is so dependent on equipment maintenance.

My most recent experience with video cameras in meat plants has been with Arrowsight. They hired me on a retainer to assist them in developing a video camera system where third party auditors can audit a plant through a secure internet link. One plant, EPL Foods in Augusta, Georgia has installed it. This is the old Shapiro plant.

Concluding Statement

There is a certain segment of the meat industry that behaves badly when no one is watching. This segment will need more eyes watching either by video or people. There is also a need for better training of USDA inspectors and clear directives where vague terminology is avoided. I strongly recommend numerical scoring. I am proud of the systems I have designed. When they are operated correctly, the animals calmly walk in and death is painless. I have taken many non-industry people through beef plants. They are amazed at how calm the cattle remain. The most common comment is: "It's not as bad as I thought it would be" or "it's cleaner and neater than I expected."

Mr. KUCINICH. First of all, thank you. We appreciate you being here. We understand you have to go. We will give you written questions and we will need your response, and we do appreciate very much your presence here and your testimony, which is very important and will be included in the record of the hearing.

Ms. GRANDIN. And how soon will I be getting the written questions?

Mr. ISSA. 5 legislative days.

Mr. KUCINICH. You will get the questions at the beginning of next week.

Ms. GRANDIN. OK, good.

Mr. KUCINICH. If you need to leave right now.

Ms. GRANDIN. I probably do need to leave right now. I don't want to get caught behind the Popemobile.

Mr. KUCINICH. What we're going to do, we have a vote on, but we're going to defer to the ranking member of the committee, who we are pleased to have with us, Congressman Issa from California. He's going to make his opening statement and then when we return after the votes, welcome back to continue the statements. So Mr. Issa.

Mr. ISSA. I thank the chairman and thank you for holding this bipartisan committee hearing, and I apologize, one of my other committees required that I be there for a bit.

This issue hits very close to home for me. Chino, CA, where Hallmark is located, is very near my district.

Ensuring safety of our public food supply is critical and not just to our Nation, but we lead the world in food safety. I know that some people have noted the European Union's food safety standards, but when it comes to delivering consistently edible food safely and at the lowest price we do lead the world.

America's the No. 1 supplier of food around the world and there's a good reason, we do have stringent health standards and the most advanced agricultural technology in the world.

Having said that, for these reasons that are among others Hallmark is a matter that is particularly disturbing to me. Let me make this very clear, there can be no excuse, no rationalization for not having the very best food safety regulations obeyed. More importantly as a technology leader here and around the world, there is no excuse not to employ modern technologies to further leverage food safety.

I'm aware of the 2004 GAO report indicating that incomplete and inconsistent inspection records made it difficult to monitor enforcement. Certainly when it comes to recordkeeping the government has spent enough that we should be able to do it among the best. The Inspector General of the Department of Agriculture noted in December 2007 that some of the issues the GAO raised in 2004 were every bit as relevant as they had been then.

I do not want to prejudge the outcome of this hearing, but to me it is clear that the inspection program and the process has failed and will continue to fail unless Congress takes an appropriately close eye at it. We must get to the root cause of this failure.

Do we have more inspectors than we did 20 years ago? We certainly have more people, more livestock and more need. Have the number of inspectors increased as our population has increased?

That's a self-known answer. Has the number of inspectors increased as the food supply has increased? How many inspectors do we employ overseas? And I say that because it's not just lead based paint being put onto toys that comes into America and can represent a poison, but in fact an amazing amount of imported foods.

One of the most important issues is what is the current level of technology that we are using? Do we employ cameras? And what other technologies could we use that are available or that are at our expense or leveraged expense could we develop? I'm aware that there are IT systems involved that may not be functioning in the best way possible today. We need to do more and we need to do it now.

It is unclear that our food supply standards are keeping pace with advances being made in other sectors, such as safety standards for toys and pharmaceuticals. The highest food standards must be our first priority. This committee on a bipartisan basis I believe will ensure and insist that both sufficient personnel and sufficient and appropriate technology be brought to bear to solve these problems and to make America once again not just the safest in the world, but the safest that it can be.

With that, I yield back and thank the gentleman.

Mr. KUCINICH. I want to thank my colleague for his opening statement, which does reflect that there is no space between us on these issues and we are working together.

At this point the committee is going to recess. We'll probably be back in a half hour.

Mr. ISSA. A little less, maybe.

Mr. KUCINICH. Or a little less. We have a number of votes, 25 minutes to a half hour. The committee stands in recess. I would ask our witness to please be back here, and we are about to get into an even more interesting phase in this hearing, thanks.

[Recess.]

Mr. KUCINICH. The House has concluded its business for the day, so the committee hearing can be expected to continue from this point on uninterrupted. The witnesses are already sworn and we are going to return to your testimony. I will repeat that I would ask that your testimony be kept to 5 minutes or less in duration, your full statement will be included in the record of the hearing.

I would ask Dr. Raymond to begin. Thank you, sir.

STATEMENT OF DR. RICHARD RAYMOND

Dr. RAYMOND. Thank you, Mr. Chairman and members of the subcommittee, thank you for having me here today. I am Dr. Richard Raymond, Under Secretary for Food Safety at the U.S. Department of Agriculture.

While there are a number of agencies at the Department working together on the Hallmark/Westland matter, the agency for which I have responsibility is the Food Safety and Inspection Service. We are the public health regulatory agency responsible for ensuring that domestic and imported meat, poultry, and processed egg products are safe, wholesome and accurately labeled. The agency enforces several longstanding Federal acts that relate to these foods that are outlined in our submitted testimony.

Like many Americans, I was appalled by the Humane Society's video which was released on January 30th. Immediately upon its release Secretary Schafer called for an investigation into the matter. The USDA's Office of the Inspector General is leading that investigation with support from FSIS and the Agricultural Marketing Service. This investigation is ongoing, and in the meantime FSIS has implemented a series of interim actions to verify and analyze humane handling activities in federally inspected establishments.

I remain confident in the safety of U.S. food supply, and to help ensure its safety we take a number of steps to prevent food borne illnesses. The agency currently employs over 9,000 personnel, including 7,800 full time in plant and other front line personnel to protect the public health in approximately 6,200 federally inspected establishments nationwide. Agency personnel must be continuously present for slaughter operations to provide ante-mortem, or before slaughter, inspection for all animals and carcass-by-carcass inspection after slaughter, and they must also inspect processing plants at least once per shift per day. To protect against exposure to bovine spongiform encephalopathy, or Mad Cow Disease, the Federal Government has an interlocking system of safeguards, as explained in detail in my submitted testimony, the most important of which for the protection of human health is the removal of specified risk materials which is confirmed by our inspection work force.

When we learned of the problems at Hallmark, we took immediate steps to determine if the allegations made public by the Humane Society of the United States were accurate. We suspended inspection at that time on February 4, 2008, based on our findings that the establishment failed to prevent the inhumane handling of animals at the facility as required by regulations and by the Humane Methods of Slaughter Act.

It is important to note that certain cattle while ambulatory when they pass the ante-mortem inspection, may become nonambulatory from acute injury or another circumstance. Regulations in effect since January 2004 require that if such a situation occurs our public health veterinarians must inspect the animal again and determine if the animal did indeed suffer from an acute injury before that animal is permitted to go to slaughter, otherwise the animal is condemned.

Evidence from the ongoing investigation demonstrates that over the past 2 years this plant did not always notify the public health veterinarian when cattle became nonambulatory after passing the ante-mortem inspection as required by our regs. This failure by Hallmark is what led to the company's February 17, 2008 voluntary recall and its subsequent request for withdrawal of inspection.

I would like to stress that the establishment's failure to notify the FSIS inspector was not as some of have implied as a result of a shortage of inspectors at Hallmark. There were no impact vacancies at that establishment during these 2 years, and time spent on humane handling activities as verified by the humane activities tracking system [HATS] as we know it, was reasonably constant over that period of time at about 90 minutes per day.

Overall as of March 29, 2008, our nationwide vacancy rate in slaughter and processing establishments was 6.1 percent. For fiscal

year 2007 the agency requested and received additional appropriation to hire 184 additional inspectors, and by October 27, 2007, we achieved a net gain of 194 inspection personnel, surpassing the goal of 184 for which the President had requested this budget increase.

This particular plant had five assigned full-time inspectors. There were three on-line inspectors, one public health veterinarian and one off-line inspector. Over the last 3 years they inspected over 370,000 cattle and carcasses and they condemned 4.6 percent, or nearly 1 out of every 20 cattle that went to this plant were condemned either ante- or post-mortem to protect the public's health.

While it is extremely unlikely that this recalled meat product posed any risk to human health, the recall action was deemed necessary because the establishment didn't fully comply with our regulation.

The USDA has taken a number of steps to strengthen our humane activities inspection system. We have temporarily increased the amount of time allocated per shift by inspection program personnel to verify humane handling activities. The agency is also conducting surveillance activities to observe the handling of animals outside the approved hours of operation from vantage points both within and adjacent to the official premises and also doing more observation without being observed.

FSIS has conducted the reported humane handling verification audits at all 18 federally inspected beef slaughter establishments that as of March 2008 were under contract and were actively participating in the USDA's Federal food assistance programs. We will continue to audit additional establishments based on priorities that have been established by the agency.

In conclusion, I want to state that FSIS is committed to improving its approach to inspection to focus on public health and risk. We will make the necessary changes after our increased surveillance is completed, our audits concluded, and the results of the OIG investigation are available to us.

Again, I thank you for the opportunity to appear before you today and I look forward to taking your questions.

[The prepared statement of Dr. Raymond follows:]

Statement
Of
Dr. Richard Raymond
Under Secretary for Food Safety
United States Department of Agriculture

Domestic Policy Subcommittee
Oversight and Government Reform
Thursday, April 17, 2008
2154 Rayburn HOB
1:00 P.M.

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to appear before you today to address the ongoing investigation of the Hallmark/Westland Meat Packing Company (Hallmark/Westland) in Chino, California, and other related issues. I want to assure you that I am deeply concerned about the inhumane handling of non-ambulatory disabled cattle in that facility.

I am Dr. Richard Raymond, Under Secretary for Food Safety at USDA. While there are a number of agencies at the Department working together on this matter, the agency for which I have responsibility is the Food Safety and Inspection Service (FSIS). FSIS is the public health regulatory agency responsible for ensuring that meat, poultry, and processed egg products are safe, wholesome, and accurately labeled. FSIS enforces the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, which require Federal inspection and regulation of meat, poultry, and processed egg products prepared for distribution in commerce for use as human food. FSIS also enforces the Humane Methods of Slaughter Act, which requires that all

livestock at federally inspected establishments be handled and slaughtered in a humane way.

As soon as the Humane Society's video was released on January 30, Secretary Schafer called for an investigation into the matter. USDA's Office of the Inspector General (OIG) is leading that investigation, with support from FSIS and the Agricultural Marketing Service (AMS). This investigation is still ongoing, and in the meantime, FSIS has implemented a series of interim actions to verify and thoroughly analyze humane handling activities in federally inspected establishments.

I remain confident in the safety of the U.S. food supply. To help ensure its safety, we take a number of steps to prevent foodborne illness. FSIS employs over 9,000 personnel, including 7,800 full-time in-plant and other front-line personnel protecting the public health in approximately 6,200 federally inspected establishments nationwide. FSIS personnel must be continuously present for slaughter operations and must inspect processing plants at least once per shift per day. Under the FSIS verification sampling program, FSIS samples meat, poultry, and processed egg products and analyzes them for the presence of microbial pathogens. In addition to its targeted sampling for *Listeria monocytogenes* in ready-to-eat products, the agency has paid particular attention to *E. coli* O157:H7 in raw ground beef through the initiative announced last fall and *Salmonella* in raw meat and poultry products through the ongoing *Salmonella* improvement plan. To protect against bovine spongiform encephalopathy (BSE), the

federal government also has an interlocking system of safeguards, which I will describe in more detail later.

FSIS Actions

When we learned of the problems at Hallmark/Westland on January 30, FSIS took immediate steps to determine if the allegations made public by the Humane Society of the United States (HSUS) were accurate.

On February 1, 2008, Hallmark/Westland voluntarily stopped slaughter operations. As a result of FSIS findings, FSIS suspended inspection at the plant on February 4, 2008. This action was based on FSIS findings that the establishment failed to prevent the inhumane handling of animals at the facility, as required by FSIS regulations and the Humane Methods of Slaughter Act. When a plant is suspended, the suspension of inspection remains in effect until corrective actions are submitted in writing and verified through a full review by FSIS.

On February 17, 2008, FSIS amended the suspension to reflect the fact that Hallmark/Westland had allowed cattle that passed FSIS ante-mortem inspection and subsequently became non-ambulatory to be slaughtered without further inspection by FSIS personnel.

On March 18, 2008, FSIS granted the Hallmark/Westland Meat Packing Company's request for a voluntary withdrawal of inspection.

Evidence from the ongoing investigation demonstrates that, over the past two years, this plant did not always notify the FSIS public health veterinarian (PHV) when cattle became non-ambulatory after passing ante-mortem (prior to slaughter) inspection, as is required by FSIS regulations. This failure by Hallmark/Westland led to the company's February 17, 2008, voluntary recall of 143 million pounds of fresh and frozen beef products produced at the establishment since February 1, 2006.

It is important to note that certain cattle, while ambulatory when they pass ante-mortem inspection, may later become non-ambulatory from an acute injury or another circumstance. If such a situation occurs, FSIS regulations require the PHV to inspect the animal again and determine that the animal did indeed suffer from an acute injury before the animal is permitted to go to slaughter. Otherwise, the animal is condemned, does not go to slaughter, and therefore, does not enter the food chain.

While it is extremely unlikely that these meat products pose a risk to human health, the recall action was deemed necessary because the establishment did not comply with FSIS regulations. The recall was designated Class II because the probability is remote that the recalled beef products would cause adverse health effects if consumed. This recall designation is in contrast to a Class I recall, which is a higher-risk health hazard situation where there is a reasonable probability that the use of the product will cause serious, adverse health consequences or death.

Safeguards Against BSE

I am aware that this situation has raised questions about the risk of BSE. I would like to take this opportunity to give you a brief summary of the safeguards against BSE that the United States has in place to protect our food supply.

Since the discovery of the first case of BSE in Great Britain in 1986, we have learned a tremendous amount about this disease. That knowledge has greatly informed USDA's regulatory systems and response efforts. It has also given us the opportunity to examine our own cattle herd, which is why we know that the risk of BSE in the United States is extremely low.

As noted earlier, the federal government's interlocking system of controls to protect the food supply from BSE includes a ban on non-ambulatory disabled cattle. But that is simply one of the multiple measures in place.

We have learned that the single most important thing we can do to protect human health regarding BSE is the removal from the food supply of specified risk materials (SRMs) – those tissues that, according to scientific evidence, could be infective in a cow with BSE. FSIS requires that all SRMs are removed from carcasses so that they do not enter the food supply. Slaughter facilities cannot operate their slaughter operations without the continuous presence of FSIS inspection personnel to ensure safe and wholesome product,

including the removal and segregation of SRMs. According to the 2005 Harvard Risk Assessment, SRM removal alone reduces the potential exposure to consumers of BSE by 99 percent. FSIS line inspectors are stationed at key points along the production line where they are able to directly observe certain SRM removal activities. Other off-line inspection personnel verify additional plant SRM removal, segregation and disposal. Moreover, FDA bans SRMs in FDA-regulated human foods and cosmetics.

An additional significant step we have taken to prevent the spread of BSE and bring about its eradication in the animal population is the ruminant feed ban. In 1997, the FDA implemented a mandatory feed ban that prohibits feeding most mammalian protein to ruminants, including cattle. The feed ban is a vital measure to prevent the transmission of BSE to cattle.

Another step is BSE testing, which is best used as a surveillance tool. By testing high-risk animals, including those that show possible clinical signs of the disease, we can document the effectiveness of our security measures.

USDA's Animal and Plant Health Inspection Service (APHIS) has conducted targeted BSE surveillance testing since 1990, including an enhanced surveillance effort that was initiated after a cow tested positive for the disease in December 2003. The goal of the enhanced effort, which began in June 2004, was to test as many animals in the targeted population as possible over a 24-month period. Out of over 759,000 animals tested, this intensive effort detected only two additional animals with the disease. Both of those

animals were born prior to initiation of the FDA feed ban and neither entered the food supply. This testing confirms an extremely low prevalence of the disease in the United States.

The enhanced surveillance program provided sufficient data to allow USDA to more accurately estimate the prevalence or level of BSE within the U.S. cattle population. Based on this analysis, we can definitively say that the incidence of BSE in the United States is extremely low. APHIS continues to conduct an ongoing BSE surveillance program targeted to high-risk animals that samples approximately 40,000 high-risk animals annually. This level of surveillance significantly exceeds the guidelines set forth by the World Animal Health Organization, which has affirmed that U.S. regulatory controls against the disease are effective.

It is because of the strong system that the United States has put in place, and which we continue to work to strengthen, that we can be confident of the safety of our beef supply from BSE and that the spread of BSE has been prevented in this nation.

Regulations Regarding Non-Ambulatory Cattle

On July 12, 2007, FSIS announced a permanent prohibition on the non-ambulatory disabled or “downer” cattle from the food supply, except otherwise normal, healthy animals that become non-ambulatory after passing ante-mortem inspection. The rule, published in the Federal Register on July 13, 2007, made permanent what had been an

interim final rule published in January 2004. The final rule became effective on October 1, 2007.

Further Actions

The investigation led by OIG with support from FSIS and AMS is ongoing. However, we are not waiting for the completion of the investigation to act.

USDA has already taken a number of steps to strengthen our inspection system. Pending the conclusion of the investigation, USDA has implemented a series of interim actions to verify and thoroughly analyze humane handling activities in all federally inspected establishments.

FSIS has increased the amount of time allocated per shift by inspection program personnel to verify humane handling activities and to verify that animals are handled humanely in ante-mortem areas. FSIS is also conducting surveillance activities to observe the handling of animals outside the approved hours of operation from vantage points within and adjacent to the official premises. On March 3, the agency issued a notice to all FSIS inspection program personnel directing them to increase significantly the time they spend conducting humane handling verification activities at all levels and to document those verification activities in the Humane Activities Tracking System (HATS) program. This began on March 10 and will continue until May 6, a total of 60 days.

Surveillance and inspection activities are being prioritized and focused based on existing data such as the category of livestock handled at the facility, humane handling data, observations made at the facility during regular inspection, and a plant's operating schedule.

Prioritization will help to ensure the optimal use of resources to ensure humane handling and food safety. FSIS is focusing surveillance and inspection activities at establishments where older or potentially distressed animals are slaughtered, such as facilities that handle dairy or veal cattle. At these facilities, the time spent performing HATS activities will be doubled. At facilities with contracts from AMS for nutrition assistance programs, HATS verification time is being doubled, regardless of the type or class of the animal slaughtered. At facilities where non-ambulatory livestock are infrequently presented, such as in slaughter facilities that handle young market classes including steers, heifers, market hogs, and lambs, an additional 50 percent of HATS verification time may be required. At least once every two weeks, a District Veterinary Medical Specialist (DVMS) – a subject matter specialist dedicated to providing technical expertise and oversight related to humane handling and slaughter – or a district analyst is verifying that inspection personnel at each official livestock slaughter establishment are conducting the appropriate increase in HATS verification time. Any plant found not in compliance will be reported to the in-plant supervisor and the frontline supervisor.

Meanwhile, FSIS will begin reviewing HATS to determine what, if any, adjustments are needed to maximize its utility as a tracking tool to improve compliance.

FSIS has conducted humane handling verification audits at all 18 federally inspected beef slaughter establishments that are under contract and actively participate in USDA's Federal food assistance programs. Twelve of the establishments slaughter predominantly cull cows or veal calves, and six slaughter predominantly young market cattle.

FSIS' DVMSs visited each of the establishments along with in-plant inspection program personnel to analyze HATS data and review each establishment's systematic approach for humane handling. FSIS also analyzed the frequency of monitoring the HATS categories completed by PHVs and other in-plant inspection program personnel. The DVMS reported their findings to establishment management at the conclusion of each visit and issued recommendations or took enforcement actions, if necessary.

FSIS concluded that 17 establishments audited had acceptable humane handling programs and practices. However, based on observations during the audit, FSIS issued a non-compliance record (NR) at three establishments: one establishment received an NR for overcrowded holding pens; one for excessive use of electric stunning prods; and one for excessive balking at the stunning area. In addition, one establishment received a Letter of Concern for using a high-powered hose to wash cattle before slaughter.

Although no inhumane activity was observed, FSIS notified the establishment that, while the use of a high-powered hose to wash cattle is not a violation of FSIS regulations, care should be taken while conducting this activity to avoid undue stress or excitement to the animal.

One establishment's humane handling program was not acceptable. That establishment was issued a Notice of Suspension because of inadequate stunning that did not render the animal insensible on the initial stunning attempt. The establishment took corrective measures and FSIS notified the establishment that the suspension is being held in abeyance to provide the establishment an opportunity to demonstrate that its corrective measures effectively remedied its problems with stunning.

Based on its review of HATS data going back to July 1, 2007, FSIS found that the time spent by FSIS inspection program personnel at the 18 establishments on HATS categories is acceptable. Even so, as a result of the audit, FSIS inspection program personnel made modifications to their HATS procedures for five establishments to improve FSIS protocols even further. Those modifications included: increasing the amount of overall time FSIS inspection program personnel spend on HATS tasks, carrying out observations in a more random manner to confirm humane handling; and increasing the amount of PHV time assessing stunning.

The investigation being led by OIG with support from FSIS and AMS is ongoing. Once the investigation has concluded, we will have additional information that, along with the results of the additional verification activities, will determine the actions for FSIS oversight, inspection and enforcement that may be required.

Efforts to Fight Foodborne Pathogens

In addition to BSE, I wanted to take this opportunity to provide the Subcommittee with an update on some of the agency's activities regarding some specific foodborne pathogens. Based on Centers for Disease Control and Prevention's (CDC) annual FoodNet data reports, we have made some progress toward meeting the Healthy People 2010 goals regarding the incidence of foodborne illness. However, the majority of this progress was made during the beginning of the decade, and has slowed in recent years. Thus, we still have work to do in the fight against foodborne illness.

FSIS' verification sampling is a critical method the agency uses to collect data and is a good example of how we have taken a more risk-based approach. Under the agency's verification sampling program, FSIS samples meat, poultry, and processed egg products and analyzes them for the presence of microbial pathogens. However, the agency has paid particular attention to *E. coli* O157:H7 in raw ground beef and *Salmonella* in raw meat and poultry products through the *E. coli* O157:H7 initiative announced last fall and its ongoing plan to improve establishment controls over *Salmonella*.

The new, ongoing actions we have undertaken to protect the public against the risk of *E. coli* O157:H7 include expanded testing. By March 2007, FSIS had already begun testing trim, the primary component in ground beef, in addition to ground beef itself. However, as a result of an increase in *E. coli* O157:H7-positive samples, the subsequent increase in

the number of *E. coli* O157:H7-related recalls, and the increase in human illnesses linked to these recalls, FSIS implemented a number of initiatives to combat *E. coli* O157:H7.

On October 26, 2007, FSIS inspection program personnel began testing additional components of ground beef. By testing earlier in the production chain, FSIS minimizes the likelihood that a contaminated source material will be used in ground beef that is available to consumers. FSIS began requiring countries whose beef is imported to the United States to conduct the same trim and beef component sampling or an equivalent measure, and the agency has begun verification sampling of trim at ports of entry to supplement the agency's sampling of ground product at ports of entry. We will be analyzing imported and domestic product test results to determine whether we need to make further changes to FSIS policies and programs.

Other key initiatives targeted to federally-inspected plants that produce raw beef products include verifying control of *E. coli* O157:H7, the creation and use of a new checklist for verifying control, targeted sampling for *E. coli* O157:H7 at slaughter and grinding facilities based on production volume and pathogen controls, follow-up sampling of 16 samples and conducting food safety assessments for plants with a Federal or State positive *E. coli* O157:H7 test result, and refinement of the agency's *E. coli* O157:H7 test method to provide a more sensitive test that will detect *E. coli* O157:H7 at even lower concentrations. All of these policy changes mean that FSIS will be better able to identify an emerging problem earlier in the production chain and will be able to prevent contaminated product from entering commerce.

In the wake of these progressive *E. coli* O157:H7-related policy changes, FSIS determined that steps were also needed to ensure that inspection program personnel and the industry fully understand the nature of the challenge presented by *E. coli* O157:H7. We are developing a strong, ongoing strategy to evaluate the success of our training program. Through the In-Plant Performance System, AssuranceNet management controls, and reports from district analysts, the agency is ensuring that inspection program personnel are doing their jobs correctly, are held accountable, and have appropriate workloads and supervision.

As with any policy or program change, FSIS is making sure that we educate and receive feedback from our public health partners and stakeholders regarding our *E. coli* initiatives. For example, on October 17, 2007, FSIS, FDA, and CDC hosted a public meeting regarding *E. coli* serotypes other than O157:H7 that are related to foodborne illness. In October and November, 2007, FSIS targeted outreach and training sessions around the country for small and very small raw beef processors. On January 23, 2008, FSIS participated in a meeting with the American Meat Institute Foundation and the National Meat Association about *E. coli* O157:H7 surveillance and prevention.

We will continue to work to identify the cause of the recent increase in *E. coli* O157:H7 illnesses and recalls, and to find a permanent, workable solution to the issue. We just held a public meeting, April 9-10, 2008, focused on a discussion with representatives from science, academia, industry, consumer groups and government, about the increase

in illnesses and recalls attributed to *E. coli* O157:H7. This meeting provided updates on FSIS initiatives and helped to continue to build a foundation for establishing solutions to address the challenges posed by this pathogen.

On May 15th and 16th, FSIS will hold a meeting with its State and local public health partners, as well as CDC, industry and consumer groups in St. Louis, MO, about how to improve the effectiveness and efficiency of outbreak investigations and recalls conducted by FSIS in collaboration with these partners. Every *E. coli* O157:H7-related recall last year showed me something that we can improve, and I hope that these meetings will get everyone to start thinking about how to improve the coordination, accuracy, and timeliness of communication and food safety activities, specifically outbreak investigations and recalls.

Another important step in that direction is USDA's announcement on February 5, 2008, that the Department agreed to grant a conditional license to Bioniche for its *E. coli* O157:H7 cattle vaccine. This is the world's first vaccine that may be used as an on-farm intervention to reduce the amount of *E. coli* O157:H7 shed by cattle.

It is important to keep things in perspective. Although last year we observed a rise in *E. coli* O157:H7-positive samples and recalls, USDA has made tremendous progress in controlling *E. coli* O157:H7 overall. In fact, between 2002 and 2006, FSIS testing shows the percentage of samples testing positive for *E. coli* O157:H7 declined by 78.3 percent.

The Agency's *E. coli* O157:H7 initiatives and the industry's collective response helped drive down the rate of *E. coli* O157:H7-positive samples in 2002, 2003 and 2004, and these rates remained at 0.17 percent for 2005 and 2006. The percentage of *E. coli* O157:H7 positive samples for 2007 increased to 0.23 percent. However, to put that percentage into perspective, out of 12,000 samples taken in 2007, only 27 were positive for *E. coli* O157:H7. Moreover, this rate was still well below the percentage of positives during the 2000-2003 timeframe

As another part of the agency's verification sampling program, FSIS collects and analyzes samples of raw meat and poultry product for *Salmonella*. In response to this continued foodborne threat, in February 2006, FSIS announced an 11-point, risk-based strategy for *Salmonella* reduction in raw products. The initiative included targeting resources at establishments with higher levels of *Salmonella* and changed the reporting and utilization of FSIS' *Salmonella* verification data test results.

We can easily see the positive results of this risk-based strategy. If we compare the plant categories based on broiler carcasses analyzed for *Salmonella* in 2005 to 2007, we see that the percentage of plants in Category 1, or those with sampling results amounting to half or less than half of the current standards, increased dramatically, from 35 percent to 74 percent. Likewise, the percentage of plants in Category 3 decreased significantly from 10 percent to two percent. Essentially, the percentage of young broiler carcasses that tested positive for *Salmonella* decreased by 50 percent – from 16 percent to 8 percent.

Earlier this year, FSIS announced further changes in its *Salmonella* policy to continue driving down the incidence of *Salmonella* in poultry. On March 28, 2008, FSIS began posting on its Web site results of completed sample sets from its Salmonella Verification Program for young chicken (broiler) slaughter establishments in performance Category 2 and Category 3. *Salmonella* performance results will be posted once per month (on or about the 15th). This information will include results received through the end of the previous month.

At this time, FSIS is not listing establishments in Category 1 and other establishments that do not have enough sets completed as required for Category 1. FSIS is looking at establishing a category for these establishments in the future.

The agency is also offering specific waivers to Category 1 establishments. With these waivers, those establishments with the lowest *Salmonella* rates will be able to test new procedures, equipment, or processing techniques that will facilitate improvements in the ongoing control of *Salmonella*.

Coordination with Public Health Partners

USDA participates in CDC's Foodborne Diseases Active Surveillance Network (FoodNet). This network is a collaboration among ten State health departments, CDC, USDA, and FDA that closely monitors the human health burden of foodborne diseases in the United States. It produces reliable estimates of the burden and trends over time for foodborne infections of public health importance. In the participating sites, FoodNet

conducts active surveillance for foodborne diseases and also conducts related epidemiologic studies that look at sporadic and outbreak foodborne infections to help public health officials better understand the epidemiology of foodborne diseases in the United States and how to target prevention strategies. FoodNet data are also used to evaluate progress toward meeting CDC's Healthy People 2010 national objectives for foodborne infections.

A sister system of FoodNet is PulseNet, a national network for molecular subtyping of foodborne bacteria, which was developed in collaboration with the Association of Public Health Laboratories (APHL) and is coordinated by CDC's PulseNet, links seemingly sporadic illnesses together and enables public health officials to more quickly identify and respond to multi-State illness outbreaks. In fact, through the use of PulseNet, State and Federal public health agencies are able to identify seemingly unrelated foodborne illnesses as actual outbreaks more quickly. Prior to PulseNet, many of these outbreaks would not have been recognized as outbreaks. These two systems allow agencies to collaborate and bring their specialized knowledge together to better protect public health.

FSIS also takes every opportunity to diversify and improve the data submitted to CDC's PulseNet. On August 30, 2007, FSIS and the Agricultural Research Service (ARS) signed a memorandum of agreement in order to share data on *Salmonella*. Specifically, the cooperative agreement served to set requirements related to the submission of *Salmonella* strains and carcasses from the FSIS/Pathogen Reduction, Hazard Analysis and Critical Control Point (HACCP) Verification, Baseline, and other programs to ARS

for testing. ARS tests include Pulsed-Field Gel Electrophoresis, which helps to determine the so-called DNA fingerprint of a pathogen; antimicrobial susceptibility tests; and other laboratory sub-typing procedures.

We are committed to working with all of our food safety and public health partners to use the data that is available and seek more data to be able to attribute illnesses to specific foods. To cite one important example, we held a public meeting in April 2007 with our stakeholders and partners and engaged them in a discussion about the importance of foodborne illness attribution data, how this data is being developed, and how it is being used. Because we believe attribution is important in public health decision making, we are pioneering the use of attribution data in our evolving public health risk-based approach to inspection.

Conclusion

FSIS is committed to improving its approach to inspection to better focus on public health and risk. All of us with a stake in food safety must work to protect people, especially those most vulnerable to a foodborne illness – the very young, the elderly, the immune-compromised, and pregnant women.

Again, thank you for the opportunity to appear before you today. I would be happy to take your questions at this time.

Mr. KUCINICH. Thank you very much. The Chair recognizes Mr. Painter.

STATEMENT OF STAN PAINTER

Mr. PAINTER. Good afternoon, Chairman Kucinich.

Mr. KUCINICH. If you could speak closely to that mic, thank you.

Mr. PAINTER. Good afternoon, Chairman Kucinich, Ranking Member Issa and other members of subcommittee. My name is Stan Painter. I'm the chairman for the National Joint Council of Food Inspection Locals that is affiliated with American Federation of Government Employees, AFL-CIO. The National Joint Council represents some 6,000 nonsupervisory inspectors who work in the Food Safety and Inspection Service of the U.S. Department of Agriculture. We are the inspection work force that enforces the provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts to ensure that consumers receive safe, wholesome and unadulterated products under USDA jurisdiction. I welcome the opportunity to share our views on four important points, the Hallmark/Westland recall, letting the system work when dealing with FSIS violations, employee intimidation and inspector shortages.

One, Hallmark/Westland recall. The recent recall of some 143 million pounds of beef products from Hallmark/Westland Meat Co. in Chino, CA, the largest recall in USDA history, is an event that we hope will shed some light on the deficiencies under the current inspection process. It highlights one of the problems that we have attempted to raise with the agency ever since 1996, when the Hazard Analysis and Critical Control Points [HACCP], inspection was put into place.

As I show in my written testimony, in the Hallmark/Westland event it points out an inspection system that can be gamed by those in industry who want to skirt the law. There have been some who have argued that since there were five inspection personnel assigned to the plant how did this happen. That is a good question, and I hope the investigation being conducted by the USDA's Office of Inspector General produces some answers, but the bottom line is that plant management creates a culture for those employees to skirt around emphasized regulations. They can usually find a way to do it because the inspection personnel are usually outnumbered.

I also hope that the investigation explores what the agency management did know about the possible past violations at this plant, because it would not be the first time that the agency sat on information about regulatory violations and did nothing about it.

Letting the system work when dealing with violations. My members are very passionate about their jobs. Consumer protection is the first thing that we think about when we go to work every day. We are trained to enforce the various laws and regulations under FSIS jurisdiction. When we see a violation we are trained to document and write noncompliance reports. However, in practice this does not always occur. It frustrates me and many of my members when we are told by our supervisors to let the system work when we see violations of FSIS regulations and we are instructed not to write noncompliance reports in order to give companies a chance to fix the problem on their own. Sometimes even if we write non-

compliance reports some of the larger companies use their political muscle to get those overturned at the agency level or by going to the congressional delegation to get this inspection staff to back off.

As a result of the agency data base not—as a result, the agency's data base may not contain accurate information about the compliance history of meat and poultry plants because of pressure being applied not to write them up for violations, employee intimidation. Some of the members have been intimidated by agency management in the past when they came forward to try to enforce regulations and policies.

I will give a personal example. In response to the December 2003 discovery of BSE in a cow in Washington State, FSIS issued a series of interim final rules in January 2004 to enhance the safety of the beef supply. Among those new regulations included the ban on meat from downed animals from entering the food supply and the removal of the SRM, Specified Risk Material, from slaughtered cattle over the age of 30 months before the meat of these animals could be processed and enter commerce.

In late 2004, I became aware and received reports that new SRM regulations were not being uniformly enforced. I wrote a letter to Assistant Food Administrator Field Operations at the time conveying to him what I had heard. On December 23, 2004, I was paid a visit at my home in Alabama by an FSIS official who was dispatched from the Atlanta regional office to convince me to drop the issue. I told him I would not. Then the agency summoned me to Washington, DC, where agency officials subjected me to several hours of interrogation, including wanting me to identify the sources of the information on the SRM removals. I refused to do so.

I was then placed on disciplinary—under disciplinary investigation status. The agency even contacted the USDA Office of Inspector General to explore the possibility of filing criminal charges against me. Those charges were never filed. Both my union, AFGE, and the consumer group Public Citizen filed separate Freedom of Information Act requests in December 2004 for the noncompliance records in the data base that would support my allegation. It was not until August 2005 after 1,000 noncompliance reports weighing over 16 pounds were turned over to both AFGE and Public Citizen. These reports proved that the information received was correct and that some beef slaughter facilities were not complying with the SRM regulations.

Consequently on the same day that the records were released I received written notification from the agency that they were dropping their disciplinary investigations into the actions, some 8 months after the investigation began. While I was completely exonerated of this incident, it caused a chilling affect on others in my bargaining unit to come forward and stand up when agency management is wrong.

Inspector shortages. As you know both the Federal Meat Inspection Act and the Poultry Product Inspection Act require that FSIS provide continuous inspection in meat and poultry facilities in the operation. Continuous inspection has come to mean that in slaughter facilities FSIS inspectors must be present at all times and to provide carcass-by-carcass inspection.

In processing facilities FSIS inspectors must visit plants at least once per shift. Unfortunately, we are experiencing severe inspector shortages in many parts of the country and the agency would seem to be very aware of those shortages.

In July 2007, the consumer group, Food and Water Watch, submitted a Freedom of Information Act request that the agency asking for in plant-inspection personnel vacancy data by FSA's district for the 2007 fiscal year. Food and Water Watch received this response in October 2007. While the data shows some progress in filling inspection vacancies, it also shows at the end of 2007 fiscal year FSIS was short 800 plant inspection personnel, running a 10.25 percent national vacancy rate. There was also wide variations in vacancy rates among the FSIS districts, ranging from 6.03 in the Jackson district to a whopping 21.25 percent in the Atlanta—excuse me, Albany district.

These are not our numbers. These are the agency numbers. These shortages are putting consumers at risk because FSIS inspectors are not able to do a thorough job in inspecting meat and poultry products because there is not enough of us to do it.

In closing, I thank you for your attention and would be happy to answer any of your questions.

[The prepared statement of Mr. Painter follows:]

**Testimony
Of
Stanley Painter, Chairman
National Joint Council of Food Inspection Local Unions,
American Federation of Government Employees, AFL-CIO
Before
Domestic Policy Subcommittee
House Committee on Oversight and Government Reform**

**Thursday, April 17, 2008
2154 Rayburn HOB
1:00 P.M.**

Good afternoon Chairman Kucinich, Ranking Member Issa and members of the subcommittee. My name is Stan Painter and I am the chairman of the National Joint Council of Food Inspection Local Unions that is affiliated with the American Federation of Government Employees, AFL-CIO. The National Joint Council represents some 6000 non-supervisory inspectors who work for the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA). We do not represent the FSIS veterinarians. We are the inspection workforce that enforces the provisions of the Federal Meat Inspection, Poultry Products Inspection and Egg Products Inspection Acts to ensure that consumers receive safe, wholesome and unadulterated products under USDA jurisdiction. I have been an FSIS inspector for nearly 23 years and I have served as the chairman of the National Joint Council for nearly five years. Prior to coming to work for FSIS, I worked in the poultry processing industry for 3 years. I welcome this opportunity to share our views on the current state of food inspection within USDA.

Hallmark/Westland Recall

The recent recall of some 143 million pounds of beef products from the Hallmark/Westland Meat Company in Chino, California – the largest recall in USDA history – is an event that the NJC hopes starts to shed some light on the deficiencies of the current inspection process at USDA. It highlights one of the problems that we have attempted to raise with the agency ever since 1996 when the Hazard Analysis and Critical Control Points (HACCP) inspection system was put in place. There seems to be too much reliance on an honor system for the industry to police itself. While the USDA investigation is still on going at Hallmark/Westland, a couple of facts have emerged that point to a system that can be gamed by those who want to break the law. First, we know that the FSIS veterinarian assigned to the facility conducted ante-mortem inspection outside in the holding pen twice during his shift – at 6:30 am and at 12:30 pm. During the time in-between, the veterinarian would go back inside the plant to supervise the actual slaughtering process. According to current practices, that meant that if any animal went down after he conducted ante-mortem inspection, it would be up to the company to alert the FSIS veterinarian to come back out to do another check on the animal. It is apparent from the video shot by the investigator for the Humane Society of the United States (HSUS) that did not occur, as it appears that downed animals were sent to slaughter after the initial ante-mortem inspection. Second, it is apparent from the HSUS video that some cattle arriving at the Hallmark/Westland facility were not able to walk on their own either from the trailers that transported them to the facility or could not stand once in the holding pen without extraordinary measures being taken by plant employees to force the animals to stand, such as pull their legs with a chain, gouging their eyes with a baton, water boarding them, or ramming a forklift into their sides. These were all clear violations of the Humane Slaughter Act.

There have been some who have argued that since there were five FSIS inspection personnel assigned to the plant, how did this happen? It is a good question and I hope the investigations being conducted by the USDA's Office of Inspector General produce some answers. But the bottom line is that if plant management creates a culture for their employees to skirt around FSIS regulations, they can usually find a way to do it because the inspection personnel are usually outnumbered. I also hope that the investigation explores what the agency management did know about this and possible past violations at this and other plants around the country because it would not be the first time that agency sat on information about regulatory violations and did nothing about it.

"Let the System Work"

My members are very conscientious about their jobs. Consumer protection is the first thing we think about when we go to work every day. We are trained to enforce the various laws and regulations under FSIS jurisdiction. When we see a violation, we are trained to document and write non-compliance reports. In practice, however, that does not always occur. As I mentioned earlier in my testimony, we have had a problem with the way HACCP was implemented at FSIS in the late 1990's and continues to be enforced. HACCP was adopted in response to the Jack-in-the-Box E.coli 0157:H7 outbreak in 1993. While HACCP was billed as an attempt to introduce science into meat and poultry inspection system, it also shifted the responsibility for food safety over to the companies. While I agree that companies must be responsible for the products they put into commerce, it frustrates me and many of my members when we are told by our supervisors to "let the system work" when we see violations of FSIS regulations and we are

instructed not to write non-compliance reports in order to give companies the chance to fix the problems on their own. Sometimes even if we write non-compliance reports, some of the larger companies use their political muscle to get those overturned at the agency level or by going to their congressional delegation to get the inspection staff to back off. So, the agency's databases may not contain accurate information about the compliance history of meat and poultry plants because of pressure being applied not to write them up for violations.

Employee Intimidation

Some of my members have been intimidated by agency management in the past when they came forward and tried to enforce agency regulations and policies. I will give you a personal example. In response to the December 23, 2003 discovery of bovine spongiform encephalopathy (BSE) in a cow in Washington State, FSIS issued a series of interim final rules in January 2004 to enhance the safety of the beef supply. Among these new regulations included a ban on meat from downed animals from entering the food supply and the removal of specified risk materials (SRMs) from slaughtered cattle over the age of 30 months before the meat from these animals could be processed and enter into commerce. In December 2004, I began to receive reports that the new SRM regulations were not being uniformly enforced. I wrote a letter to the Assistant FSIS Administrator for Field Operations at the time conveying to him what I had heard. On December 23, 2004, I was paid a visit at my home in Alabama by an FSIS official who was dispatched from the Atlanta regional office to convince me to drop the issue. I told him that I would not. Then, the agency summoned me to come here to Washington, DC where agency officials subjected me to several hours of interrogation including wanting me to identify which of

my members were blowing the whistle on the SRM removal violations. I refused to do so. I was then placed on disciplinary investigation status. The agency even contacted the USDA Office of Inspector General to explore criminal charges being filed against me. Those charges were never filed. Because all of this was occurring during the time that USDA was trying to re-open beef trade with Japan, I found out that the disciplinary investigation and the possible criminal investigation into my allegations were the subject of a posting on the website of the U.S. Embassy in Japan. Both my union AFGE and the consumer group Public Citizen filed separate Freedom of Information Act requests in December 2004 for any non-compliance records in the FSIS data base that would support my allegations. It was not until August 2005 that over 1000 non-compliance reports – weighing some 16 pounds -- were turned over to both AFGE and Public Citizen that proved that what my members were telling me was correct – that some beef slaughter facilities were not complying with the SRM removal regulations.¹ Coincidentally, on the same day that those records were released, I received written notification from the agency that they were dropping their disciplinary investigation into my actions – some eight months after their “investigation” began. It then took further action by Congresswoman Rosa DeLauro and Congressman Maurice Hinchey to have the State Department remove some of the material that was posted about me on the website of the U.S. Embassy in Japan. While I was completely exonerated in this incident, it has caused a chilling effect on others within my bargaining unit to come forward and stand up when agency management is wrong.

Inspector Shortages and Increased Workload

¹ See “Evidence of Weak Meat Inspection Program Found in Nearly a Thousand Violations of Mad Cow Rules at Slaughter Plants,” Public Citizen, August 18, 2005, <http://www.citizen.org/pressroom/release.cfm?ID=2024>

As you know, the Federal Meat Inspection Act and Poultry Products Inspection Act both require that FSIS provides continuous inspection in meat and poultry facilities while in operation. Continuous inspection has come to mean that in slaughter facilities, FSIS inspectors must be present at all times to provide carcass-by-carcass inspection. In processing facilities, FSIS inspectors must visit plants at least once per shift. In recent years, we have experienced severe inspector shortages in many parts of the country. This became very apparent in 2006 when the agency experienced a cut in funding. We began to hear examples of one processing inspector having to handle 18 processing plants in his daily assignment that covered from just north of New York City to Connecticut. In the Philadelphia District, we became aware of another inspector's assignment that included 24 plants. This was occurring in spite of the fact that the agency was testifying in 2006 before the House and Senate Agriculture Appropriations Subcommittees that each processing inspector spent an average of 2 hours and forty minutes at each plant. Congress became aware of the shortages and began to address the problem by allocating additional resources in the 4th Continuing Resolution for FY 2007 that was signed into law by President Bush on February 15, 2007. However, there still seem to be severe inspector shortages in several parts of the country. In July 2007, the consumer group Food & Water Watch submitted a Freedom of Information Act request to FSIS asking for in-plant inspection personnel vacancy data by FSIS District for the 2007 Fiscal Year. Food & Water Watch received a response in October 2007, which I have attached to my testimony. While the chart shows some progress in filling inspector and veterinarian vacancies, it also shows that at the end of the 2007 Fiscal Year, FSIS was still short some 800 in-plant inspection personnel – running a 10.25% national vacancy rate. There were also wide variations in vacancy rates among FSIS

Districts ranging from a low of 6.03% in the Jackson District to a whopping 21.25% in the Albany District. These are not our numbers – these are the agency's numbers.

These shortages are taking a toll on my members and their ability to do their jobs. In early 2007, the NJC along with the consumer group Food & Water Watch conducted survey of nearly 5700 of my members. We mailed a questionnaire to them and 1320 responded, and this is what we learned:

- Over 70% said staffing shortages impacted their physical and mental health;
- More than half of slaughter and combination plant inspectors responded that less than half of the regulatory violations they observed were actually recorded on non-compliance reports;
- Nearly 90% of slaughter and combination plant inspectors reported that off-line inspectors (those inspectors responsible for writing non-compliance reports) have been pulled to cover vacancies on the slaughter line (where they cannot write the reports);
- Nearly 40% of inspectors who were on patrol assignments stated that not all processing plants in their circuit were visited at least once per shift and over three-quarters of those inspectors stated that those plants were not visited at least once daily.

These shortages are putting consumers at risk because FSIS inspectors are not able to do a thorough job of inspecting meat and poultry products because there are not enough of us to do it.

On the issue of workload, there was a March 4, 2008 study released by the organization OMB Watch in which they found that the number of FSIS employees has not kept up with the increased level of production in the meat and poultry industries. The study points out that in FY 1981, there were 181 FSIS employees per billion pounds of meat and poultry inspected and passed; in FY 2007, FSIS employed fewer than 88 workers per billion pounds – a 54 percent drop. I have also attached that study to my testimony for your consideration.

That has meant one thing – increased line speeds. Today, we have some poultry slaughter facilities that are allowed to operate line speeds at the rate of 200 birds per minute and some beef slaughter operations at 390 head per hour. The agency is now considering industry proposals to permit some poultry processing facilities to operate at even faster line speeds. In the 2007 joint NJC- Food & Water Watch survey of my members, nearly 80% of the slaughter and combination plant inspectors reported that line speeds were so fast that it made it difficult to catch adulteration on carcasses.

The agency is also considering proposals to privatize meat and poultry inspection. Since 1999, FSIS has operated a pilot project called the HACCP-based Inspection Models Project or HIMP in which company employees have assumed some of the duties normally performed by FSIS inspection personnel. It has led to a reduction in the number of FSIS inspectors assigned in those plants. Line speeds can be completely unregulated at these facilities. This pilot project is being conducted in some two-dozen poultry and hog slaughter facilities. The agency is proposing to expand this pilot eventually to cover all meat and poultry slaughter facilities and has come up with the catchy title of Public Health Based Inspection System to hide the fact that it is trying to outsource meat and poultry inspection. Just last week, we learned that FSIS has given its approval to an Australian beef company to be able to export its products to the United States under a privatized inspection system. While no beef plants are currently in HIMP in the United States, we view the Australian approval as a backdoor attempt to introduce a privatized beef inspection scheme here in the United States.

I thank you for your attention and I would be happy to answer any of your questions.



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Washington, D.C.
20250

OCT 23 2007

Mr. Tony Corbo
Food & Water Watch
1400 16th Street N.W.
Suite 225
Washington, D.C. 20036

RE: FOIA Case No.: 07-216
Number of Vacancies

Dear Mr. Corbo:

This letter is in reference to your Freedom of Information Act (FOIA) request dated July 6, 2007.

In responding to a FOIA request, the Department of Agriculture's Food Safety and Inspection Service (FSIS) search will include responsive records in its control on the date the search began. FSIS' search began on August 17, 2007.

Your request is granted in full at no cost to you. Enclosed is a spreadsheet that lists vacancy data for Fiscal Year 2007, and a page with explanatory notes.

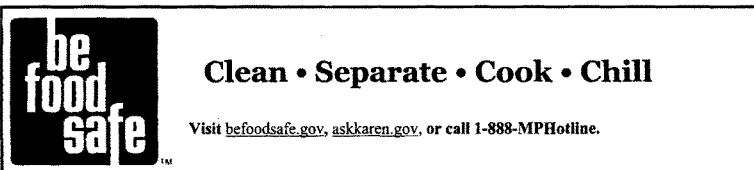
For your information, your FOIA request, including your identity and the information made available, is releasable to the public under subsequent FOIA requests. In responding to these requests, FSIS does not release personal privacy information, such as home address, telephone number, or social security number, all of which are protected from disclosure under FOIA Exemption 6.

Thank you for your interest in FSIS' programs and policies.

Sincerely,

Janice G. Carpenter
Acting, Deputy Director
Executive Correspondence
and Issues Management Staff

Enclosures



Fiscal Year 2007 Employment and Vacancy Data
as of 9-29-2007

Inplant Inspection Employment (Chart 1)

District	Month											
	Oct'06	Nov'06	Dec'06	Jan'07	Feb'07	Mar'07	Apr'07	May'07	Jun'07	Jul'07	Aug'07	Sept'07
Alameda	404	407	405	405	407	405	401	406	402	407	408	407
Denver	409	413	407	398	396	402	401	398	401	402	400	412
Minneapolis	294	303	296	292	293	296	293	296	297	298	298	299
Des Moines	585	586	590	590	592	589	592	590	585	584	584	585
Lawrence	505	512	512	504	509	509	513	514	513	520	519	514
Springdale	700	696	701	688	685	683	689	689	686	687	695	691
Dallas	478	485	482	481	481	478	474	477	489	500	507	505
Madison	224	230	223	221	220	220	220	222	226	231	232	231
Chicago	354	355	354	353	357	365	375	379	377	381	382	391
Philadelphia	376	378	378	369	370	372	371	370	367	369	368	371
Albany	218	215	215	214	220	220	220	219	217	215	214	215
Beltsville	412	404	402	401	402	408	411	409	412	409	411	408
Raleigh	635	642	638	643	644	651	661	659	674	678	681	685
Atlanta	742	746	739	733	741	745	748	749	755	759	754	757
Jackson	812	812	813	806	819	837	838	839	837	833	833	841
Total	7148	7184	7155	7098	7136	7180	7207	7216	7238	7273	7286	7312

Inplant Inspection Vacancy Rate (Chart 2)

District	Month											
	Oct'06	Nov'06	Dec'06	Jan'07	Feb'07	Mar'07	Apr'07	May'07	Jun'07	Jul'07	Aug'07	Sept'07
Alameda	12.36%	12.28%	12.34%	12.53%	11.90%	12.15%	12.25%	11.16%	12.42%	11.52%	11.11%	11.33%
Denver	15.15%	14.14%	15.38%	16.91%	17.15%	16.25%	15.04%	15.86%	15.22%	19.60%	17.36%	17.43%
Minneapolis	12.24%	9.55%	11.90%	14.62%	13.31%	11.90%	12.80%	11.64%	11.34%	9.70%	11.04%	9.12%
Des Moines	11.23%	11.08%	10.61%	10.61%	10.30%	10.76%	10.30%	10.47%	11.23%	11.38%	11.38%	11.23%
Lawrence	8.18%	6.74%	6.74%	8.36%	7.62%	7.62%	7.90%	7.05%	7.23%	6.31%	5.12%	7.72%
Springdale	7.77%	8.30%	9.55%	8.87%	8.42%	9.05%	8.50%	9.82%	9.50%	9.37%	9.15%	9.91%
Dallas	13.87%	14.16%	14.69%	15.02%	15.17%	15.40%	16.11%	16.32%	15.10%	13.79%	13.33%	13.68%
Madison	7.82%	4.56%	7.47%	8.30%	8.33%	8.33%	9.09%	8.64%	7.76%	5.71%	5.69%	6.85%
Chicago	9.92%	17.06%	17.48%	17.91%	16.59%	14.32%	12.38%	11.45%	11.92%	10.98%	10.75%	8.64%
Philadelphia	8.29%	7.80%	8.25%	9.56%	9.09%	8.60%	9.73%	11.69%	11.78%	10.44%	10.46%	9.73%
Albany	20.15%	21.25%	21.25%	21.61%	19.41%	19.41%	18.82%	19.49%	20.22%	20.66%	21.03%	21.25%
Beltsville	12.34%	10.42%	10.86%	11.87%	11.45%	9.73%	8.87%	9.31%	8.65%	9.31%	8.67%	9.33%
Raleigh	13.61%	13.59%	14.13%	13.81%	13.79%	12.50%	10.68%	12.13%	10.13%	9.84%	9.56%	9.39%
Atlanta	10.06%	9.69%	8.99%	10.94%	10.18%	9.81%	10.20%	10.08%	8.82%	8.22%	9.16%	8.90%
Jackson	8.25%	9.07%	8.86%	10.04%	8.80%	6.79%	6.68%	5.20%	5.74%	6.30%	6.93%	6.03%
Actual	11.04%	11.06%	11.46%	12.23%	11.64%	11.03%	10.74%	10.83%	10.54%	10.40%	10.25%	10.25%

Data does not include T4 positions

NOTE: Employment data is derived from NFC Bi-weekly reports. OTP is included in Chart 1 and 2

Chart 1- Indicates the number of Permanent Full Time inspection and relief personnel (i.e. Inspectors and Veterinarians) and the Other Than Permanent staff years (SY) that were used to provide coverage for inplant assignments.

Other Than Permanent (OTP) staff year usage is utilized as an efficient means of providing short term coverage for emergency and planned leave situations in certain parts of the country. (Example: there was approximately 20 OTP staff years used in the month of October 2006. Those 20 staff years were added to the employment count).

Chart 2- Indicates the vacancy rate for each month, by district.

Neither chart includes employment or vacancies associated with those assignments that are covered by agreements with the States under the Talmadge-Aiken (TA) Act because such coverage is provided by State employees. Approximately 92 new inspection positions, which reflect new industry demand for service, were established in FY 2007. Federal inspection positions associated with designating the State of New Mexico (11) are included in these 92 new inspection positions.

Nine districts experienced a decrease in their vacancy percentage rates with the most notable being Raleigh and Jackson.

Two districts experienced no change in vacancy percentage.

Four districts experienced an increase in their vacancy rates.

Nationally, vacancy percentage rates throughout the Agency went down by .8 %.

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Bankrupting Government:

Federal Meat Inspectors Spread Thin as Recalls Rise

The federal regulator of meat, poultry, and egg products, the Food Safety and Inspection Service (FSIS), faces resource limitations that make it more difficult for the agency to ensure the safety of the food supply. Although the agency's budget has risen since it was created, staffing levels have dropped steadily. Widespread vacancies in the agency have spread FSIS's inspection force too thin. Meanwhile, the number of meat, poultry, and egg product recalls has risen, and a recent recall of 143 million pounds of beef is the largest in the nation's history.

The U.S. Department of Agriculture created FSIS in 1981. Federal law requires the agency to monitor the slaughter, processing, and labeling of all meat and poultry and to inspect meat and poultry to ensure products are not contaminated or adulterated. Egg products also fall under the agency's jurisdiction. The agency is responsible for ensuring the safety and wholesomeness of the billions of pounds of meat, poultry, and egg products that enter the market each year.

Budget Increases Fail to Keep Pace with Size of Mandate

Unlike many other federal regulatory agencies, the budget for FSIS has seen a marked increase since its inception. From FY 1981 to FY 2007, appropriated funds for the agency increased 25 percent when adjusted for inflation. The bulk of that growth has occurred in the last 12 years. (See Graph 1.)

BANKRUPTING GOVERNMENT

series titled *Bankrupting Government: How a Decades-Long Campaign against Federal Spending Has Undermined Public Protections*. Click here for previous articles and more information.

Graph 1

FSIS Appropriations, 1981-2007

Fiscal Year	Budget (in millions \$)
1981	650
1982	650
1983	650
1984	650
1985	650
1986	650
1987	650
1988	650
1989	650
1990	650
1991	650
1992	650
1993	650
1994	650
1995	650
1996	650
1997	650
1998	650
1999	650
2000	650
2001	750
2002	800
2003	800
2004	800
2005	800
2006	830
2007	890
2008	930

Source: White House Office of Management and Budget

*Inflation adjusted to 2008 dollars

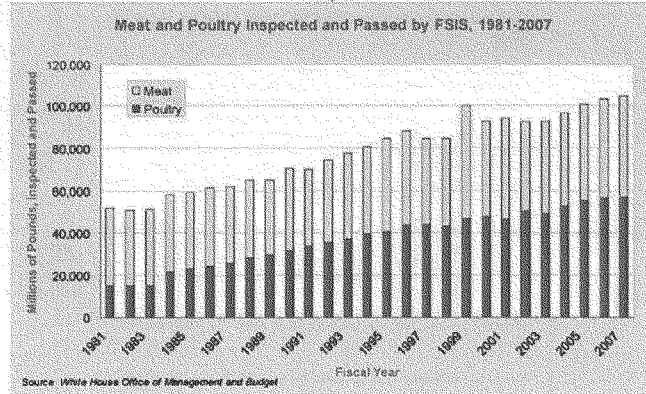
In particular, the agency has enjoyed significant budget increases over the past three fiscal years. In FY 2006, FSIS was appropriated \$830 million; in FY 2007, \$890 million; and in FY 2008, \$930 million — a two-year increase of 7.5 percent when adjusted for inflation. President Bush's proposed FY 2009



budget calls for another increase of \$22 million, to \$952 million. When adjusting for inflation, the proposed increase will likely be negligible — holding funding for FSIS level.

Meanwhile, meat and poultry consumption in the U.S. has increased sharply. Since FSIS began operations, pounds of slaughtered meat and poultry inspected and approved by the agency have doubled — from about 52 billion pounds in 1981 to about 104 billion pounds in 2007. Much of the increase is due to the expanding U.S. poultry market. Pounds of poultry approved by FSIS nearly quadrupled during that time. (See Graph 2.)

Graph 2

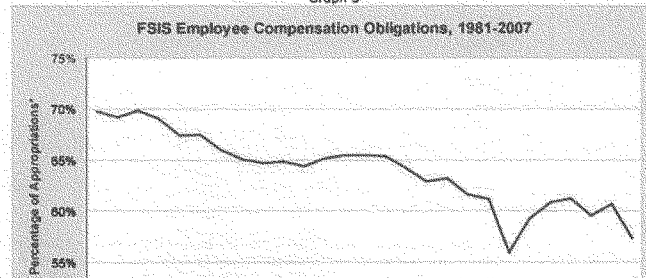


Because of the increase in production, FSIS staff and resources become increasingly smaller when compared to the scope of the industry it regulates. Even though FSIS's budget has increased, the growth is dwarfed by the expansion of the meat and poultry industry. Of its appropriated funds, in FY 1981, FSIS spent \$13.22 per thousand pounds of meat and poultry inspected and passed. By FY 2007, the figure had fallen to \$8.26 per thousand pounds — a drop of almost 40 percent.

Spending on FSIS Workers Slows

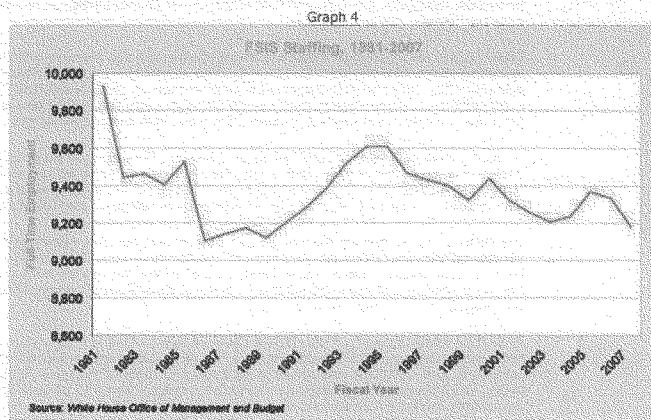
While Congress has appropriated significantly more money since the early 1980s, the agency has not spent proportionally for personnel. In the early 1980s, FSIS spent about 69 percent of its appropriated funds to pay its employees. However, the percentage has steadily dropped. By FY 2007, the agency only spent 57 percent on employee compensation. (See Graph 3.) And correlated with this decline is a drop in the number of agency workers.

Graph 3

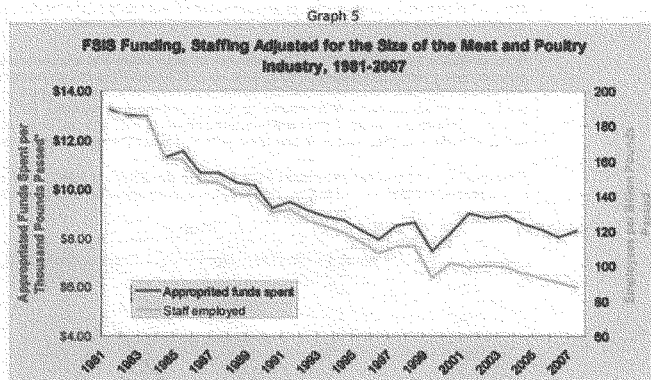




From FY 1981 to FY 2007, the number of full-time employees at FSIS fell from 9,932 to 9,194 — a 7.5 percent drop. Despite robust funding increases in the 2000s, FSIS's staffing level has dropped nearly three percent during this time. FSIS's staffing is now at its lowest level since FY 1989. (See Graph 4.)



The situation appears even worse when comparing the size of the meat and poultry industry to the size of FSIS's workforce. In FY 1981, FSIS employed about 190 workers per billion pounds of meat and poultry inspected and passed. By FY 2007, FSIS employed fewer than 88 workers per billion pounds, a 54 percent drop. (See Graph 5.)



Source: White House Office of Management and Budget Fiscal Year Inflation adjusted in 2008 dollars

Where's the Inspector?

For FSIS and consumers, the consequences are real. The increasing disparity between the size of FSIS and the size of the regulated community means FSIS inspectors face difficulty performing their duties and fulfilling the mission of the agency.

Other agencies that focus on product inspection, such as the Consumer Product Safety Commission or the food division of the Food and Drug Administration, conduct risk-based inspections. In risk-based inspection, managers, analysts, and field officers focus on those products or firms that they determine pose the greatest risk to consumers.

Under federal law, FSIS must inspect all meat, poultry, and egg products intended for commercial use. According to the FSIS website, "Slaughter facilities cannot operate if FSIS inspection personnel are not present," and, "Only Federally inspected establishments can produce products that are destined to enter commerce." Theoretically, FSIS's comprehensive inspection regime means that the physical presence of inspectors is essential to both plant operations and product safety.

In reality, inspection activity manifests itself differently. Recent media accounts have reported that slaughterhouse and processing plant employees use radios to signal the comings and goings of FSIS inspectors. According to *The Los Angeles Times*, "They even assign the pretty talkative woman to work next to the inspector to distract him from his mission to safeguard the nation's food supply."

The ability of processors and manufacturers to circumvent the FSIS inspection process is aided by widespread inspector shortages. According to *The Baltimore Sun*, "inspectors interviewed said that because of vacancies in the ranks, inspectors are often forced to do the work of two or three staff members, making it all the more difficult for them to catch signs of disease either in animals before slaughter, or in meat that has been butchered."

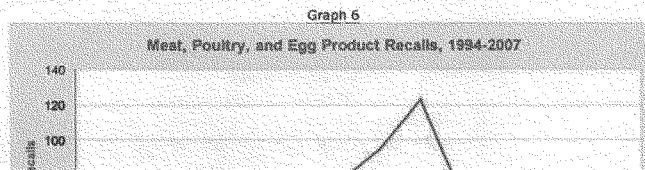
In multiple media accounts, FSIS officials claim the agency employs more than 7,000 inspectors nationwide. However, FSIS's inspection force has an average national vacancy rate of at least ten percent. In June 2007, the rate spiked to 12.2 percent. Three of the agency's 15 districts — Denver, Dallas, and Chicago — consistently carried vacancy rates of about 15 percent. One district, Albany, consistently carried a vacancy rate of more than 20 percent. These high vacancy rates continue to erode the ability of FSIS to properly carry out a robust inspection regime of the nation's beef, poultry, and egg stocks.

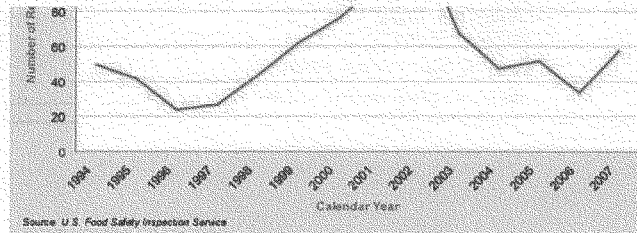
Recalls and Right to Know

Less thorough inspections raise the chance that processors may have to conduct recalls. Although recalls present an opportunity for FSIS and processors to keep tainted meat, poultry, or egg products away from consumers, recalls are far less effective in protecting public health than proper inspections, which keep those products from entering the market in the first place.

First, all recalls are conducted by manufacturers or distributors and are completely voluntary. FSIS may request a recall, but it cannot force a recall. (FSIS does have the authority to seize products in commerce.) Second, manufacturers and distributors frequently recover only a small fraction of the product for which the recall was announced. Lastly, and most importantly, FSIS does not release the names or locations of retail outlets where tainted products may end up, stripping consumers of their ability to make informed decisions and their right to protect themselves and their families.

Meat, poultry, and egg product recalls have spiked in the 2000s. In 2001, FSIS announced 95 recalls of the products under its jurisdiction. In 2002, the agency announced 123 recalls. (See Graph 6.)





Although the number of recalls has declined since 2002, their severity has increased. Two of the three biggest meat recalls in U.S. history have occurred in the past four months. In October 2007, Topps Meat Co. announced the recall of 21.7 million pounds of ground beef used for frozen hamburgers due to *E. coli* contamination. At the time, the Topps recall was the second largest in U.S. history. The *E. coli*-contaminated meat sickened at least 40 people in eight states.

On Feb. 17, Hallmark/Westland Meat Packing Co. announced the recall of more than 143 million pounds of beef, the largest recall in U.S. history. The company announced the recall after an investigation by the Humane Society of the United States showed that nonambulatory (or "downer") cows were slaughtered and allowed into the market. Federal regulations prohibit companies from processing and selling meat from downer cows without explicit FSIS inspector approval because downer cows have a higher probability of being infected with mad cow disease. However, USDA officials say the health risks posed by the Hallmark/Westland beef are low.

Outlook

In 2005, FSIS began considering switching to risk-based inspection practices. FSIS says it would move additional inspectors to processing plants determined to have a high risk. The agency has also proposed virtual inspection — a process by which cameras would monitor facilities' compliance with food safety regulations — for lower-risk plants, according to sources familiar with the issue. FSIS hopes to finalize the switch before the end of the Bush administration.

Critics believe the transition to a risk-based inspection model is directly tied to agency resources. According to a report by the nonprofit group Food and Water Watch, "Far from a minor adjustment intended to maximize food safety, this plan is really being used as a way to reduce the USDA's budget." The report adds, "The changes in the way inspectors are assigned to meat and poultry plants would make current inspector shortages permanent, effectively shrinking the size of the agency's frontline inspection workforce."

Recent failures of the meat inspection regime have provided the public and Congress a window into the breakdown of FSIS's ability to safeguard a large part of the nation's food supply. And although resource allocation within the agency may be open to criticism, it is clear that Congress has failed to maintain funding levels for FSIS comparable to the size of the meat, poultry, and egg industries. Restoring and enhancing FSIS's capacity to protect consumers is not restricted to a single-dimension policy change, but it does require that Congress provide adequate levels of funding that would allow FSIS to keep up with its responsibilities and fulfill its mission.

Endnotes:

All budget and staffing data for Fiscal Years 1981-2007 are from the Budget of the U.S. Government appendices, Fiscal Years 1981-2009. These volumes are the president's request to Congress and contain final budget numbers and program data from two fiscal years prior.

* All inflation-adjusted figures are expressed in 2006 dollars. Inflation adjusting is based on the Bureau of Labor Statistics Consumer Price Index, available at: <http://bls.gov/pub/special.requests/cpi/cpiat.txt>

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Ms. SHAMES. Chairman Kucinich—

Mr. KUCINICH. I thank the gentleman. I just want to make sure the record reflects that Ms. Shames' first name is Lisa. And thank you very much for proceeding.

STATEMENT OF LISA SHAMES

Ms. SHAMES. Chairman Kucinich and members of the subcommittee, I am pleased to be here today to discuss three issues, FSIS recordkeeping related to the Humane Methods of Slaughter Act [HMSA], challenges that FSIS faces, and more generally the Federal oversight of food safety.

First, concerning FSIS recordkeeping, in 2004 we reported that it was difficult to determine the extent of humane handling and slaughter violations. We were told that some inspectors did not always document violations because they were unsure about regulatory requirements. In addition, FSIS could not provide a complete set of records for the period we were reviewing and the records that were available did not consistently document the scope and severity of the violations. For example, some cited ineffective stunning but did not provide additional information on the cause or number of animals affected.

We also reported that FSIS took inconsistent enforcement actions. For example, in one case a plant's operations were not suspended after 16 violations related to ineffective stunning. In contrast, another plant's operations were suspended when it failed to provide access to water and to maintain acceptable pen conditions.

In response, FSIS has taken actions and issued additional guidance. Among other things, this guidance clarifies the categories for the types of causes of violations to be reported. It also provides examples of egregious inhumane treatment that would warrant immediate enforcement. However, we have not assessed how effectively the guidance is being applied in day-to-day operations.

Central to the purpose of today's hearing, greater transparency in the meat industry, is that in 2002 the Congress urged the Secretary of Agriculture to report annually on HMSA violations and trends. However, FSIS last reported to the Congress in March 2003. At that time FSIS indicated there were very few infractions related to humane handling and slaughter. However, our review of the records arrived at a different finding. Whereas, FSIS sampled about half of the noncompliance records, we reviewed them all and found that one-fourth documented ineffective stunning.

I should note that in the last few years USDA has provided some information at the request of House and Senate Appropriation Committees as part of their budget process.

Second, regarding challenges, unlike the budgets of other Federal agencies responsible for food safety, FSIS has seen a marked increase since 1988, from \$392 to \$930 million. When adjusted for inflation the increase is about 47 percent. However, the number of FSIS employees has declined since fiscal year 1995 by 4 percent. Agency officials attribute this overall decline in part to industry consolidation. Vacancy rates for its inspectors have declined to about 4 percent. But two districts, Boulder and Des Moines, reported vacancy rates of about 22 and 11 percent respectively.

During my site visits last week to two slaughterhouses in Colorado, veterinarians told us that they were stretched thin and often had to backfill for the inspectors. On a positive note FSIS staff levels are estimated to grow in 2008.

As a backdrop the quantity of meat and poultry inspected by FSIS has increased over the last 20 years from 65 to more than 100 billion pounds. This is due mostly to the expanding poultry market. In addition, while the number of recalls has declined from 125 to 58 in the last 5 years, the quantity of meat and poultry recalled has sharply increased. Further, two of the biggest recalls in U.S. history occurred in the last 6 months at Tops and Westland/Hallmark Meat Companies.

Third, regarding the Federal oversight of food safety, 15 agencies collectively administer at least 30 food safety laws. This fragmentation is a key reason we designated the Federal oversight of food safety as a high risk area that needs governmentwide reexamination. Over the last 30 years we have reported on inconsistent oversight, ineffective coordination, and inefficient use of resources.

Most noteworthy for today's hearing is that Federal funds have not kept pace with the volume of foods regulated or consumed by the public. We have reported that USDA receive most of the Federal food inspection funds even though it's responsible for about 20 percent of the food supply. In contrast, FDA received about a quarter of the funds, even though it is responsible for regulating about 80 percent of the food supply.

Taken as a whole, now is the time to look across agency programs. To that end GAO has recommended, among other things, comprehensive and risk based food safety legislation, a reconvened President's Counsel on Food Safety and a governmentwide performance plan.

In conclusion, FSIS must assure the Congress that animals are being handled and slaughtered humanely. In view of the challenges FSIS faces, public reporting, including the annual reports urged by the Congress, is in the public interest and promotes transparency and government operations.

This concludes my statement, and I would be pleased to respond to any questions.

[The prepared statement of Ms. Shames follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Domestic
Policy, Committee on Oversight and
Government Reform, House of
Representatives

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HUMANE METHODS OF HANDLING AND SLAUGHTER

**Public Reporting on
Violations Can Identify
Enforcement Challenges
and Enhance Transparency**

Statement of Lisa Shames, Director
Natural Resources and Environment



G A O

Accountability • Integrity • Reliability

GAO-08-686T

April 17, 2008



Highlights of GAO-08-686T, testimony before the Subcommittee on Domestic Policy, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

In fiscal year 2007, more than 150 million cattle, sheep, and other animals destined for human consumption were slaughtered in the United States. The U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service is responsible for enforcing the Humane Methods of Slaughter Act (HMSA), which mandates that animals are handled and slaughtered humanely. GAO reported on USDA's efforts to enforce HMSA in 2004 (*Humane Methods of Slaughter Act: USDA Has Addressed Some Problems but Still Faces Enforcement Challenges*, GAO-04-247). More broadly, GAO has also issued many reports that address federal oversight of the U.S. food safety system.

This testimony focuses on (1) GAO's 2004 report on the frequency and scope of reported HMSA violations and enforcement actions by USDA, (2) information on trends in staffing and funding for USDA food inspections, and (3) information on overall federal oversight of food safety. To provide this new information, GAO analyzed personnel and funding data from USDA and the Office of Management and Budget, and interviewed USDA food safety inspection officials.

To view the full product, including the scope and methodology, click on GAO-08-686T. For more information, contact Lisa Shames at (202) 512-3841 or shamesl@gao.gov.

HUMANE METHODS OF HANDLING AND SLAUGHTER

Public Reporting on Violations Can Identify Enforcement Challenges and Enhance Transparency

What GAO Found

In January 2004, GAO reported that incomplete and inconsistent inspection records made it difficult to determine the frequency and scope of HMSA violations, inspectors did not always document violations of the act, and they did not consistently document the scope and severity of each incident. GAO also reported that enforcement actions to address noncompliance with the act were inconsistent, and that USDA was not using consistent criteria to determine when to suspend plant operations in cases of serious or repeated violations. The Congress has urged USDA to report annually on trends in compliance with humane slaughter methods. Such public reporting can enhance transparency, but USDA's most recent report was in March 2003 and relied on incomplete data. For example, that report said very few infractions were for inhumane treatment, but GAO found that at least one-fourth of the infractions were for ineffective stunning which fails to meet humane standards. USDA has taken actions to address the recommendations GAO made in 2004 about oversight of HMSA. However, GAO has not evaluated the effectiveness of these actions.

USDA faces resource challenges that may make it difficult for it to enforce HMSA and ensure the safety of the food supply. Although USDA's budget for food safety-related activities has increased since 1988, staffing for these activities has declined from its highest level in 1995. Agency officials noted the overall decline is due, in part, to consolidation in the meat industry, resulting in fewer facilities. In 2004, GAO found that USDA lacked detailed information on how much time its inspectors spend on humane handling and slaughter activities, making it difficult to determine if the number of inspectors is adequate. USDA has taken actions to address most of GAO's recommendations for assessing its resource needs for HMSA, but GAO has not evaluated these actions. Although not directly related to HMSA activities, the quantity of meat and poultry inspected and passed by USDA has grown, and the quantity of meat and poultry recalled has increased.

USDA has oversight responsibility for ensuring the safety of meat, poultry, and processed eggs. For example, federal regulations prohibit companies from processing and selling meat from disabled cows—which have a higher probability of being infected with bovine spongiform encephalopathy—without explicit USDA inspector approval. However, USDA is only 1 of 15 agencies that collectively administer at least 30 laws related to food safety. This fragmentation is the key reason GAO added the federal oversight of food safety to its High-Risk Series in 2007 and called for a governmentwide reexamination of the food safety system. GAO has reported on problems with this system—including inconsistent oversight, ineffective coordination, and inefficient use of resources. Going forward, as GAO has recommended, a governmentwide, results-oriented performance plan and a reconvened President's Council on Food Safety could build a sustained focus on the safety of the nation's food supply.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the U. S. Department of Agriculture's (USDA) implementation of its program to ensure that animals destined for human consumption are handled and slaughtered humanely. More than 150 million cattle, sheep, hogs, and other animals ultimately destined to provide meat for human consumption were slaughtered in fiscal year 2007, at some 700 federally inspected slaughter facilities throughout the United States. The Food Safety and Inspection Service (FSIS), within USDA, is responsible for enforcing the Humane Methods of Slaughter Act (HMSA), which prohibits the slaughtering of animals, or the handling of animals in connection with slaughtering, unless it is humane. However, the recently documented inhumane treatment of disabled cows slaughtered at the Westland/Hallmark plant in California and the entry of their meat into the market calls into question FSIS's enforcement of the act. In particular, federal regulations prohibit companies from processing and selling meat from disabled (nonambulatory) cows without explicit FSIS inspector approval. Nonambulatory cows raise particular concerns because they have a higher probability of being infected with bovine spongiform encephalopathy, commonly known as mad cow disease.

In 2004, we reported that FSIS was not adequately recording instances of noncompliance with HMSA, and thus could not assure the Congress that it was fully enforcing the act at federally inspected slaughter facilities.¹ Specifically, we found the following:

- Incomplete and inconsistent inspection records made it difficult to determine the frequency and scope of humane handling and slaughter violations. Those inspection records showed that inspectors did not always document violations of HMSA and that when they did, the inspectors did not consistently document the scope and severity of each incident. Enforcement actions to address noncompliance with the act and regulations were also inconsistent.
- FSIS officials were not using consistent criteria to suspend plant operations. As a result, plants in different FSIS districts were not subject to comparable enforcement actions.

¹GAO, *Humane Methods of Slaughter Act: USDA Has Addressed Some Problems but Still Faces Enforcement Challenges*, GAO-04-247 (Washington, D.C.: Jan. 30, 2004).

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- FSIS lacked detailed information on how much time its inspectors spent on humane handling and slaughter activities, making it difficult to determine if the number of inspectors is adequate. In general, FSIS officials believed that, with the introduction of a District Veterinary Medical Specialist (DVMS) in 2002 at each of the agency's field offices, the number of personnel devoted to humane handling and slaughter compliance was adequate.

Our 2004 report did not specifically assess FSIS's effectiveness in enforcing the humane handling and slaughtering provisions of HMSA, such as those related to the Westland/Hallmark incident.

In this context, my testimony today focuses on (1) GAO's 2004 report on the frequency and scope of reported HMSA violations and enforcement actions by USDA, (2) trends in staffing and funding for USDA food inspections, and (3) GAO's designation of federal oversight of food safety to its High-Risk Series.

In summary, I would like to make three observations. First, FSIS has taken actions to address the recommendations we made in our 2004 report to improve its reporting of humane handling and slaughter methods at federally inspected facilities. These recommendations principally dealt with weaknesses in FSIS's internal reporting of the frequency and scope of HMSA violations. However, without further evaluation and public reporting to enhance transparency and accountability, we do not know the effectiveness of these actions.

Second, although the FSIS budget has increased since 1988, staffing levels have declined since 1995, and some districts have experienced high vacancy rates among inspectors, possibly impairing enforcement of HMSA and food safety regulations generally. Meanwhile, the volume of meat and poultry inspected and passed by FSIS has grown, along with the number of pounds of recalled meat and poultry. Staff levels are expected to rise slightly in 2008 as FSIS fills vacant positions.

Third, USDA's FSIS is only 1 of 15 agencies that collectively administer at least 30 laws related to food safety. This fragmentation is the key reason GAO added the federal oversight of food safety to its High-Risk Series in 2007 and called for a governmentwide reexamination of the food safety system.² The fragmentation results in federal resources for food safety

²GAO, *High-Risk Series: An Update*, GAO-07-310 (Washington, D.C.: Jan. 31, 2007).

being directed to multiple agencies. For example, the majority of federal expenditures for food safety inspection were directed toward USDA's programs for ensuring the safety of meat, poultry, and egg products, even though USDA is responsible for regulating only about 20 percent of the food supply.

This testimony is based on new and previously issued work. To analyze trends in FSIS resources, we examined personnel and funding data from FSIS and the Office of Management and Budget for the past 20 years and determined they were sufficiently reliable for our analyses. To provide updated information on our previously issued reports, we interviewed FSIS officials and gathered information on the status of our recommendations. We conducted our work from April 2 through April 14, 2008, in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Congress passed the Humane Slaughter Act in 1958 following intense and broad-based public concerns about cruelty and abuse of livestock in meat-packing plants. At that time, the Congress determined that using humane methods of slaughter prevented the needless suffering of livestock, resulted in safer and better working conditions for employees, and brought about improvements in products and economies of slaughter operations, among other benefits. However, the act was limited to federal government agencies, which were required to contract for or procure meat products only from producers and processors that employed humane slaughtering methods in all of their plants. In 1978, the Congress passed HMSA, which required that all federally inspected slaughter establishments adopt humane handling and slaughter methods.

FSIS has issued regulations and directives to enforce the act. Important requirements of these regulations and guidance include the following:

- Animals stunned before slaughter must be rapidly and effectively rendered insensible before they are slaughtered. Stunning is effective when the animal feels no pain, is rendered instantly unconscious, and remains unconscious until slaughtered.

-
- Dragging of disabled and other animals unable to move while conscious is prohibited.
 - All holding pens and driveways and ramps must be designed, built, and maintained to prevent injury to livestock.
 - Livestock should be provided with access to water in holding pens, and food if held for more than 24 hours.
 - The use of electrical prods and other devices to move livestock must not be excessive.

FSIS is responsible for ensuring compliance with HMSA. FSIS is also responsible for ensuring the safety of most meat, poultry, and processed egg products at federally inspected facilities. Currently, FSIS employs in-plant about 7,800 inspectors—that is, public health veterinarians, food inspectors, and consumer safety inspectors. These inspectors work collaboratively, and are responsible for inspecting animals prior to slaughter, as well as the carcasses after slaughter, in order to ensure the food is safe for human consumption. According to FSIS officials, as inspectors carry out their food safety and other activities, they are responsible for monitoring compliance with humane handling and slaughter requirements at plants that are covered by HMSA. According to FSIS, while HMSA requires inspectors to observe the entire handling and slaughter process, inspectors do not have to observe all animals all the time for HMSA compliance.

When inspectors observe a violation of HMSA or its implementing regulations, they are required to notify plant management and document the violation.

In response to HMSA noncompliance, FSIS can take a number of enforcement actions, which impose restrictions on a facility's ability to operate, including the following:

- For less serious violations of HMSA, inspectors at a facility can issue a "reject tag" to quickly respond to violations that are limited in scope. Inspectors place these reject tags on a piece of equipment or an area of the plant, prohibiting use until the violation is corrected.
- For more serious violations, the district manager can suspend inspection until violations are addressed. This usually results in suspended operations at the facility (or part of the facility) because without federal

inspections the facility's products are prevented from entering interstate and foreign commerce.

In the rare cases where a plant fails to respond to FSIS concerns about repeated or serious violations, the administrator of FSIS can withdraw inspection. This removes the grant of inspection from a facility, preventing its products from entering interstate and foreign commerce. The facility must reapply for and be awarded a grant of inspection before federal inspections may resume.

**FSIS Has Taken
Actions Intended to
Improve Its Records
on Humane Slaughter
Violations, but Public
Reporting Can
Enhance
Transparency**

In 2004, we identified weaknesses in FSIS's regulations and guidance for recording compliance with HMSA in key areas: (1) the frequency and scope of humane handling and slaughter violations, and (2) actions to enforce compliance with humane handling and slaughter provisions. FSIS has taken steps to improve its reporting of humane handling and slaughter violations. However, although the Congress has urged USDA to report annually on violations and trends in compliance, USDA has not issued such a report since March 2003. Such public reporting can enhance transparency.

In 2004, we reported that incomplete and inconsistent FSIS inspection records made it difficult to determine the frequency and scope of humane handling and slaughter violations. Available FSIS records showed that during the 28 months between January 2001 and March 2003, inspectors wrote 553 noncompliance records to document violations of HMSA and the implementing regulations at 272 facilities across the United States. According to these inspection records, ineffective stunning, which does not quickly render animals insensible to pain, and in many cases results in a conscious animal reaching slaughter, was the most prevalent type of noncompliance. To a lesser extent, the records showed incidents of, in declining order of prevalence: poor facility conditions, failure to provide water to animals awaiting slaughter, excessive force, and excessive use of electric prods. However, in conducting this analysis, we found internal control problems that call into question the reliability of FSIS records regarding compliance with the act. First, because the agency had not stored its noncompliance records in electronic form, it could not provide us with at least 44 of the 553 records from January 2001 through March 2003. Second, almost half of the DVMSs we interviewed at the time of our review reported that inspectors did not always document noncompliance when they should have because they were unsure about regulatory requirements. Third, the noncompliance records did not consistently document the scope and severity of violations. For example, some

noncompliance records mentioned that ineffective stunning occurred, but did not provide the cause of the violation or the number of animals affected.

We also reported FSIS took inconsistent enforcement actions to address noncompliance with HMSA. Inspectors stationed in slaughter plants had not consistently issued reject tags, which temporarily halt operations in all or part of a plant. Several of the DVMSs we interviewed attributed the inconsistent enforcement actions to inspectors' inexperience, lack of clarity regarding their authority, or the misperception that certain violations were minor. We found similar inconsistencies at the district management level. District managers can decide to take the more serious enforcement action of withdrawing inspectors from the plant, most likely suspending a plant's operations, when they are notified of serious violations. However, they lacked clear criteria on when to do so, which can lead to inconsistent enforcement. We found, for example, one case in which a district manager did not suspend inspections after inspectors had issued 16 noncompliance records to a slaughter facility documenting the plant's failure to properly stun animals. In contrast, another facility's failure to provide access to water and to maintain acceptable pen conditions led to a suspension of operations. As a result, FSIS could not ensure that humane slaughter requirements are consistently enforced across districts, a fact that undermines FSIS efforts to enforce the act.

To provide more useful information and to help strengthen oversight of HMSA, we recommended in 2004 that the Secretary of Agriculture direct FSIS to (1) include in noncompliance records specific information on the type and cause of violations, (2) establish additional criteria for when districts are to take enforcement actions in cases of repetitive violations, and (3) require that district offices and inspectors clearly document the basis for enforcement actions that they take in response to repetitive violations, among others. In response to these recommendations FSIS took steps intended to strengthen its oversight of humane handling and slaughter methods at federally inspected facilities. In particular, it has issued additional guidance to its district offices and inspectors to assist them in determining when to take enforcement actions for repeated violations. The guidance includes, among other things:

- categories for the types and causes of humane handling and slaughter violations to be reported on noncompliance records;

-
- questions inspection personnel should use to assist them in determining when a noncompliance trend exists; and
 - examples of noncompliance activities affecting an animal's safety or constituting inhumane treatment of an egregious nature that would warrant immediate enforcement by inspection personnel.

Although the agency's actions were responsive to our recommendations, without further evaluation, we do not know the effectiveness of these actions.

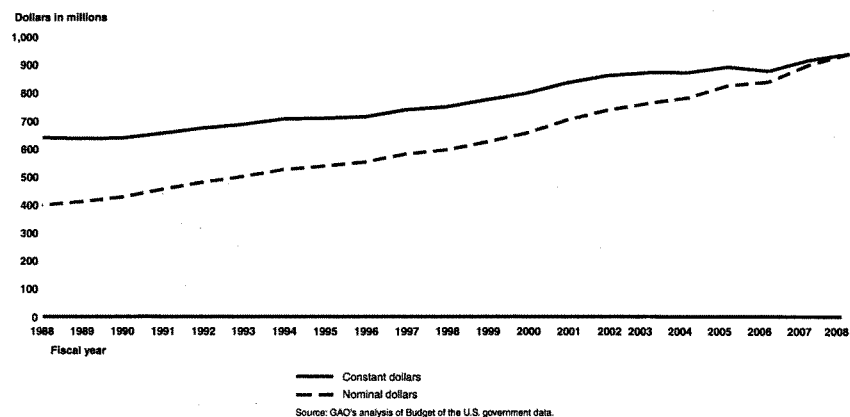
Finally, FSIS has not reported annually on trends in compliance with humane slaughter methods, as urged by the Congress, and its most recent data on violations were incomplete. Public reporting is the means through which the federal government communicates the results of its work to the Congress and the American people. Such reporting is in the public interest and promotes transparency in government operations. In 2002, the Congress urged the Secretary of Agriculture to fully enforce the Humane Methods of Slaughter Act and report annually to the Congress on the number of violations and trends recorded by FSIS inspectors.³ According to FSIS officials, in response to the Congress and as part of its annual appropriations process, USDA has provided the House and Senate appropriations committees information on the number of suspensions as well as general information on HMSA activities. However, in recent years, USDA has not reported to the Congress on the number of violations and trends recorded by its inspectors. In its most recent report, in March 2003, USDA indicated to the Congress that during fiscal year 2002, "very few infractions were for actual inhumane treatment of the animals." However, we identified shortcomings in the data used to make this finding. At the time of our review, officials told us that the statement was based on a sample of approximately half of the noncompliance records available. In contrast, our analysis of all of the noncompliance records FSIS provided for fiscal year 2002 showed that one-fourth of the 366 noncompliance incidents documented by inspectors were for incidents of ineffective stunning which fails to meet humane standards in USDA regulations. Lack of complete and consistent data can make it difficult for FSIS to accurately assess compliance with the act, and prevents transparency in the reporting of violations.

³Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, Section 10305 116 Stat. 134, 493.

FSIS's Budget Has Increased as Staffing Has Declined

Unlike the budgets of other federal agencies responsible for food safety, the budget for FSIS has seen a marked increase since 1988. As shown in figure 1, the agency's budget authority increased from \$392 million in fiscal year 1988 to \$930 million in fiscal year 2008, or 137 percent. When adjusted for inflation, the increase is about 47 percent.

Figure 1: FSIS Budget Authority, Fiscal Years 1988 through 2008

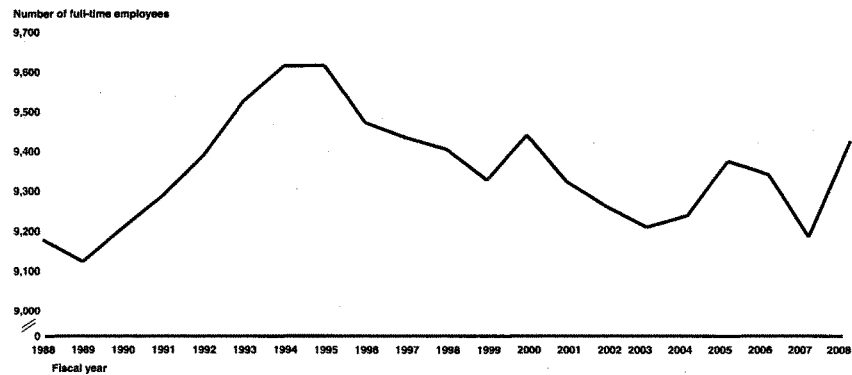


The Administration's proposed fiscal year 2009 budget calls for an increase in FSIS's funding to \$952 million. When adjusted for inflation, the proposed increase is about \$4 million, or 0.5 percent.

While FSIS's budget authority has significantly increased since the late 1980s, the number of FSIS employees has declined. As shown in figure 2, from fiscal year 1995 to fiscal year 2007, the number of full-time employees at FSIS fell from about 9,600 to about 9,200, or 4 percent. Vacancy rates across FSIS have declined to about 7 percent, and for its inspector positions vacancies have declined to about 4 percent. However, 2 of the agency's 15 districts—Boulder and Des Moines—reported vacancy rates among their inspector positions of about 22 percent and 11 percent,

respectively. As the figure also shows, staff levels are expected to rise slightly in 2008 as FSIS fills vacant positions. Agency officials noted the overall decline is due, in part, to consolidation in the meat industry, resulting in fewer facilities, and the introduction of the Hazard Analysis and Critical Control Point system, which is a risk-based effort to reduce food contamination.

Figure 2: FSIS Staff Levels, Fiscal Years 1988 through 2008



Source: Budget of the U.S. government.

Note: Data for 2008 are estimated.

Furthermore, in 2004 we reported FSIS did not have data on the number of inspectors devoted to compliance with HMSA or on the amount of time that inspectors spend on humane handling and slaughter requirements. Without such information, FSIS could not determine the appropriate number of inspectors for different-sized plants or the number of inspectors needed overall to effectively enforce the act.

We recommended that FSIS (1) develop a mechanism for determining the level of resources that the agency devotes to humane handling and

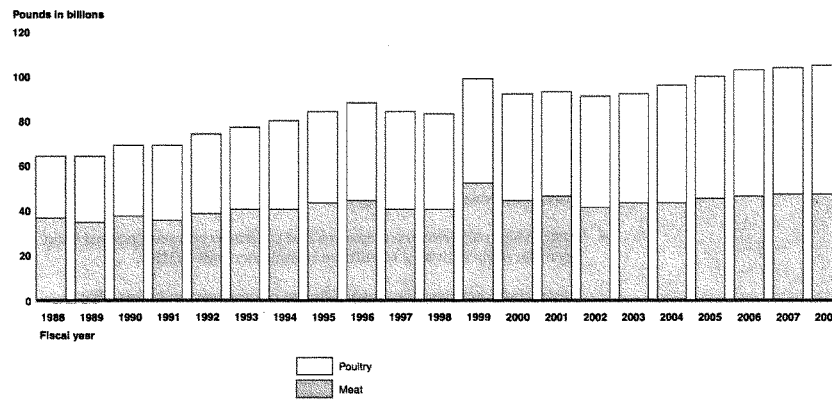
slaughter activities, (2) develop criteria for determining the appropriate level of inspection resources, and (3) periodically assess whether that level is sufficient to effectively enforce the act. In response to these recommendations, FSIS took steps intended to improve its monitoring of resources needed to ensure compliance with HMSA. Specifically, FSIS

- implemented a system that tracks inspectors' time spent verifying that humane handling and slaughter requirements are met,
- developed policy that instructs FSIS managers to use data on the amount of time devoted to humane handling and slaughter activities to assist in inspection resource planning, and
- established performance measures and targets to compare against time spent on daily activities to enforce compliance with HMSA.

Again, these actions were responsive to our recommendations, but without further evaluation, we do not know the effectiveness of these actions.

Although not directly pertaining to FSIS's enforcement of HMSA, the quantity of meat and poultry inspected by the agency, as well as the quantity of meat and poultry recalled, identifies some of the current challenges the agency faces. Meat and poultry consumption in the United States has increased sharply. As shown in figure 3, the quantity of meat and poultry inspected and approved by the agency has increased from about 65 billion pounds in 1988 to more than 100 billion pounds in 2007. Much of the increase is due to the expanding U.S. poultry market.

Figure 3: Meat and Poultry Inspected and Passed by FSIS, Fiscal Years 1988 through 2008



Note: Data for 2008 are estimated.

Although the number of recalls has declined in recent years, the quantity of meat and poultry recalled has increased sharply. Meat and poultry product recalls declined from 125 in 2002 to 58 in 2007. However, 2 of the 6 biggest meat recalls in U.S. history have occurred in the past 6 months. In October 2007, Topps Meat Company LLC announced the recall of 22 million pounds of ground beef used for frozen hamburgers due to E. coli contamination. At the time, the Topps recall was the fifth largest in U.S. history. The E. coli-contaminated meat sickened at least 40 people in eight states. On February 17, 2008, Westland/Hallmark Meat Company announced the recall of more than 143 million pounds of beef, the largest recall in U.S. history. The quantity of meat and poultry recalled has increased from 5 million pounds in 1994, the first year for which data were readily available, to 145 million in just the first quarter of March 2008.

Federal Oversight of Food Safety Is a High-Risk Area that Needs Governmentwide Reexamination

While today's hearing focuses specifically on FSIS's responsibilities for the oversight of food safety, it is important to note that FSIS is 1 of 15 federal agencies that collectively administer at least 30 laws related to food safety. This fragmentation is a key reason we designated federal oversight of food safety as a high-risk area. Primary responsibility for food safety lies with USDA—which has oversight responsibility for meat, poultry, and processed egg products—and the Food and Drug Administration (FDA)—which is responsible for the safety of virtually all other foods. In addition, among other agencies, the National Marine Fisheries Service (NMFS) in the Department of Commerce conducts voluntary, fee-for-service inspections of seafood safety and quality; the Environmental Protection Agency (EPA) regulates the use of pesticides and maximum allowable residue levels on food commodities and animal feed; and the Department of Homeland Security is responsible for coordinating agencies' food security activities. This federal regulatory system for food safety, like many other federal programs and policies, evolved piecemeal, typically in response to particular health threats or economic crises.

In 2007, we added the federal oversight of food safety to our High-Risk Series,⁴ which is intended to raise the priority and visibility of government programs that are in need of broad-based transformation to achieve greater economy, efficiency, effectiveness, accountability, and sustainability. Over the past 30 years, we have reported on issues—for example, the need to transform the federal oversight framework to reduce risks to public health as well as the economy—that suggest that the federal oversight of food safety could be designated as a high-risk area. The fragmented nature of the federal food oversight system suggests the government could plan more strategically to inspect food production processes, identify and react more quickly to outbreaks of foodborne illnesses, and focus on promoting the safety and integrity of the nation's food supply.

While we have reported on problems with the federal food safety system—including inconsistent oversight, ineffective coordination, and inefficient use of resources—most noteworthy for today's hearing is that federal expenditures for the oversight of food safety have not kept pace with the volume of foods regulated by the agencies or consumed by the public. We have reported that four agencies—USDA, FDA, EPA, and NMFS—spent a

⁴GAO-07-310.

total of \$1.7 billion on food safety-related activities in fiscal year 2003.⁵ USDA and FDA were responsible for nearly 90 percent of those federal expenditures. However, the majority of federal expenditures for food safety inspection were directed toward USDA's programs for meat, poultry, and egg products even though those programs cover only about 20 percent of the food supply. In contrast, FDA accounted for only 24 percent of expenditures even though it is responsible for regulating about 80 percent of the food supply.

Others have called for fundamental changes to the federal food safety system overall. In 1998, the National Academy of Sciences' National Institute of Medicine concluded that the system is not well equipped to meet emerging challenges.⁶ In response to the academy's report, the President established a Council on Food Safety, which released a Food Safety Strategic Plan in January 2001. The plan recognized the need for a comprehensive food safety statute and concluded, "the current organizational structure makes it more difficult to achieve future improvements in efficiency, efficacy, and allocation of resources based on risk."

Taken as a whole, our work indicates that the Congress and the executive branch can and should create the environment needed to look across the activities of individual programs within specific agencies, including USDA, and toward the goals that the federal government is trying to achieve. To that end, we have recommended, among other things, that the Congress enact comprehensive, uniform, and risk-based food safety legislation and commission the National Academy of Sciences or a blue-ribbon panel to conduct a detailed analysis of alternative organizational food safety structures. We have also recommended that the executive branch reconvene the President's Council on Food Safety to facilitate interagency coordination on food safety regulation and programs. According to documents on the council's Web site, the current administration has not reconvened the council.

These actions can begin to address the fragmentation in the federal oversight of food safety. Going forward, to build a sustained focus on the

⁵GAO, *Overseeing the U.S. Food Supply: Steps Should be Taken to Reduce Overlapping Inspections and Related Activities*, GAO-05-549T (Washington, D.C.: May 17, 2005).

⁶National Academy of Sciences, Institute of Medicine, *Ensuring Safe Food from Production to Consumption* (Washington, D.C.: 1998).

safety and integrity of the nation's food supply, the Congress and the executive branch can develop expectations for food safety and follow up with congressional oversight and strategic planning by agencies, including USDA. We have previously reported that a governmentwide performance plan that is mission based and results oriented would help ensure agency goals are complementary and mutually reinforcing. Furthermore, this plan would help decision makers balance trade-offs and compare performance when making resource allocations and restructuring decisions.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or Members of the subcommittee may have.

Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. For further information about this testimony, please contact Lisa Shames, Director, Natural Resources and Environment (202) 512-3841 or shamesl@gao.gov. Key contributors to this testimony were Thomas Cook, Assistant Director; Kevin Bray; Leslie Mahagan; Ben Shouse; and Tyra Thompson.

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Mr. KUCINICH. Thank you very much for your testimony. We are now going to proceed with questions, and I would like to begin with Dr. Raymond.

Dr. Raymond, USDA has said publicly and repeatedly that the animal handling abuses and other violations documented at Westland/Hallmark were an aberration, an isolated incident. Is that your testimony today as well?

Mr. RAYMOND. Mr. Chairman, as I mentioned in my testimony, we have done audits of the 18 plants that were contracted to provide food to the Federal programs and we have increased our surveillance in plants that also slaughter. And that's been going on for about 45 days now, the increased surveillance. When we did the audits, we found no evidence of this type of egregious behavior fortunately. We did suspend inspection in 1 of the 18 plants because of repeated failures of adequate stunning. That plant has corrected that problem and is now operating again.

In the increased surveillance that we have done, we have suspended inspections as a result of that, partly as a result that. We haven't suspended inspections in 22 plants so far this year. That's compared to 12 plants last year, but again they were for situations such as inadequate pens, inadequate stunning, etc. None of them were for the egregious behavior that we saw in those videos from Hallmark.

Mr. KUCINICH. Is it true that there's more than 600 plants worth looking at, not just 18.

Mr. RAYMOND. The 18 that I referenced were the plants that were contracted in March to provide food to the school lunch program and other Federal programs. We are doing audits in all of the plants and we are doing them systematically based on the type of—the priorities we've established. For instance, the old cull cows which are at the highest risk of inhumane handling, the next set of plants we'll audit, we'll go through every single one of our slaughter plants, yes, sir.

Mr. KUCINICH. Isn't it true that the USDA conducted two audits at Westland/Hallmark in the past 3 years, one in 2005 and again in 2007, and that the 2005 audit cited minimal infractions; namely, that the client used his electronic prod excessively. The plant responded that the excessive use was due to lack of battery power in the equipment and immediately rectified this shortcoming. That's what we were told. Isn't that true?

Mr. RAYMOND. That is true. There are also some other shortcomings in the 2005 audit.

Mr. KUCINICH. And in the 2007 audit isn't it true that the audit noted no infractions and instead gave Westland/Hallmark glowing reports?

Mr. RAYMOND. We noted no infractions and I don't know if I would use the word "glowing" but we noted no infractions, yes, sir.

Mr. KUCINICH. And yet only a few months later the Humane Society investigation revealed that the USDA's findings were a dismal reflection of the underlying reality at Hallmark/Westland?

Mr. RAYMOND. When we do the audits, sir, there are nine specific areas we look at and then the overall system effect. If we had seen this egregious behavior going on, of course they would not have passed audit, they would not have had inspection the rest of that

day. We did not see that behavior going on. The rest of the humane handling that we do enforce includes safety, the pens, adequate water, shelter from inclement weather.

Mr. KUCINICH. You—at a press briefing we had Dr. Kenneth Petersen saying that the FSIS believes this to be an isolated incident of egregious violations of human handling requirements and prohibition of non-ambulatory disabled cattle from entering the food supply. This was said somewhat prematurely, wasn't it?

Mr. RAYMOND. I believe the egregious behavior that we saw on those tapes was isolated. We are doing the increased auditing to confirm that. We do not need to—perhaps it was slightly premature to say that until we completed our audits and our increased surveillance.

Mr. KUCINICH. Those statements were made prior to the completion of an audit?

Mr. RAYMOND. Yes, sir.

Mr. KUCINICH. And so I want to go to Mr. Painter.

You are head of the union of USDA inspectors; is that correct?

Mr. PAINTER. Yes, sir.

Mr. KUCINICH. I want to ask you the same question. Are the animal handling abuses and other violations documented at Westland Hallmark an aberration, an isolated incident?

Mr. PAINTER. I'm of the opinion, no.

Mr. KUCINICH. Why or why not?

Mr. PAINTER. Because the agency has a policy enforced across the Nation and were allowing and not only allowing, were requiring plants to police themselves.

Mr. KUCINICH. You are—repeat that.

Mr. PAINTER. Yes, sir. I'm saying that I do not believe this is an isolated incident. The reason I'm stating this is because of the HACCP program, Hazard Analysis and Critical Control Program, where the agency has turned a lot of the process over to the plants.

Mr. KUCINICH. Is the agency sitting on regulatory violations?

Mr. PAINTER. Excuse me. I'm sorry, would you repeat that, please?

Mr. KUCINICH. You made an assertion in your opening statement that it wouldn't be the first time the agency sat on information about regulatory violations and did nothing about it.

Mr. PAINTER. That's—that's the truth.

Mr. KUCINICH. And what do you have to base that on?

Mr. PAINTER. Yes, sir. That was based on information that came to me back in the fall of 2004 regarding SRM violations. And the—ones I brought this to the agency's attention, the agency didn't want to admit there was a problem, placed me under personal misconduct investigation for some 8 months, and then finally produced over 1,000 documents actually stating exactly what—what I had said. I see one of two things going on. Either they knew it or they didn't know it. If they knew it, they skirted the problem. If they didn't know it, then they have a lot of explaining to do to Congress and the consumer public.

Mr. KUCINICH. Can you cite any information from your recollection, discussions that you've had with any of your members with respect to noncompliance reports being written and companies

using, as you state in your remarks, political muscle to get non-compliance reports overturned at the agency level?

Mr. PAINTER. Yes, sir. I actually experienced that myself.

Mr. KUCINICH. Tell me about that.

Mr. PAINTER. I have—I held product for an entire run one night at a processing facility. I tagged the product, I documented that noncompliance through NNR, and the plant called their Congressman and worked through congressional channels to get that product released.

Mr. KUCINICH. And what happened as a result? You cited a violation and you're saying that there was no enforcement because an effort was made that was political in nature?

Mr. PAINTER. Correct.

Mr. KUCINICH. Did that have an effect on the enforcement, that there was a lack of enforcement consequently?

Mr. PAINTER. Well, it was told to me in the future, you know, if this is the kind of process that's going to take place, you know, if you see this in the future don't even bother with it because it is going to go through the same steps and be released.

Mr. KUCINICH. So is it possible that inspectors could be discouraged from doing their job if they think there will be political influence overruling their judgment?

Mr. PAINTER. Yes, sir, most definitely.

Mr. KUCINICH. This committee is very interested in any document that you want to provide us with respect to—with respect to what you've just said and with respect to any of the other individuals who you are working with who have had their inspections, data essentially overruled by what you described as political interference. We take that very seriously and we are going to need more information.

My time for asking questions has concluded on this round. We're going to go to another Member, but we're going to come back for one more round of questioning on this panel. I will go to Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

You know, I think your line of questioning was a very good start and hopefully I will just follow on. Dr. Raymond, an answer that I asked for and was given from I believe USDA's legislative person earlier tells us that in 1988 there were 7,600 Federal inspectors covering 6,900 establishments. Today there's approximately 7,800 covering 6,200 establishments. Seem about right?

Mr. RAYMOND. Yes, sir.

Mr. ISSA. So about a 25 percent increase in population and probably pretty proportional increase in consumption—perhaps from our waist lines we consume a little more than proportional—we haven't kept pace. The number of workers clearly has not increased proportional to the population or to the amount of food we consume. Would that be fair to say?

Mr. RAYMOND. Yes.

Mr. ISSA. And then if we assume that the reason is because you are leveraging technology and efficiencies, what are those technologies and efficiencies that would allow us to believe that part of the problem isn't simply not enough eyes on the process?

Mr. RAYMOND. Yes, sir. First of all, I would preface my response by saying of course we do not base the number of inspectors on the

population of the United States. That would obviously not be a wise thing to do.

Mr. ISSA. How about the population of the cattle, pigs and chickens passing through the process?

Mr. RAYMOND. Yes, sir. What we have seen over the last 20 years is more of the meat and the poultry products passing through larger plants where there are efficiencies of scale. That 6,900 establishments that were present 20 years ago, if you look at our records you will probably find that most of the closures have been very small plants located primarily in very rural areas. That was our—as Mr. Painter will tell you, a lot of inspectors have plants, many plants that they inspect in 1 day, sometimes too many plants in 1 day due to inspector shortages. I think that was in his written testimony. And so if you have an inspector going to four plants in a day and driving between each one of those plants, that inspector is spending a lot of time on the road that we are paying for, but it's not doing anything for the safety of the food supply. If one of the four plants closes its doors, we're not going to need—that inspector can do a better job in the three plants that are left. So when we lose those plants it is not necessarily technology, it is the fact that there is less travel time and inspectors spend more time in the plants.

Mr. ISSA. I appreciate that.

Mr. Painter, if we assume that there is for all practical purposes a 1:1 ratio, one inspector per plant, it is slightly better than that, but only slightly better, 1½ per, and we assume people have vacation, they have sick leave, they have training days, by the time you get through the available on any 1 day, there is probably less than 1 inspector per plant per day in any way, shape or form available. Is it sufficient, particularly in line with such things as forklifting a live animal in what certainly did not seem to be an appropriate way from my watching the video? Is there any way you can do anything about that if you don't have cameras or some other kind of data collection system? If in fact there's only one or less inspector that can have eyes anywhere in a plant no matter how large or efficient it is, you still only have one inspector per day at the most at a plant.

Mr. PAINTER. Ranking Member Issa, we currently have at least one visit per day in processing. Slaughter operations are different, but you know you're going to have—in most slaughter operations you're going to have three stations, you're going to have the head and the viscera and carcass station. So like in the Westland/Hallmark situation, of the five people that were there for inspection three of them were tied up every single day on the slaughter line. That's required by law. A carcass-by-carcass and bird-by-bird inspection is required by law. And if there is a shortage, if someone is out as you mentioned due to vacation or what have you and there is no one available to take their place, that floor person has to go, that would normally be in a position to go to the yard, you know, have full range of the plant, things of that nature, would have to go to the line. That would only leave one person on the floor to do all animal mortem, to do all floor work, and to give the required breaks and the necessary breaks that the inspectors would actually need on the line.

And you know, we have had some locations, especially the Northeast, that one inspector would be assigned 21 facilities to go to. And I don't care if they are right across the street from one another, you know, you cannot physically go to 21 facilities in a day. The agency has said well, we assigned those people that job to do, so therefore that position was covered.

Mr. ISSA. And I'm hoping for a second round, but on that round if I could just do a little followup. Technology in addition to more human beings, let's just assume we gave you enough people to have one inspector on each shift in each plant without leveraging additional eyes, sensors, capability, essentially other things do the checking and you check the checking. If we don't do that, is there any way that you can quantumly improve inspection to where you can say that events such as the forklifting of a cow aren't occurring? And I say this as someone who has been a manufacturer and ultimately our entire process had to depend on our quality assurance people being able to essentially train and trust people down the line and then just check them. Don't you have a situation in which today two sets of eyes, no matter even if you had 10 of them in a plant there are things they are not going to see, don't you need a quantum leap in the tools available to your inspectors if we are going to begin to assure the public that these things aren't going to go on?

Mr. PAINTER. Certainly I think that the agency and Congress needs to explore different ways of doing and looking at things. It was mentioned about video surveillance, and the question that I would have would be who would then do the video surveillance and who would maintain the cameras? We work in an environment that is extremely hot, it's extremely cold, and it's extremely wet. Could the video cameras survive in that kind of arena?

But that is not going to show direct product contamination that you would be looking for. That would not show product contact surfaces that a person could physically go and look and see and feel and be aware of what is happening.

But as far as the process with the humane slaughter, certainly anything that would give us a position to be able to monitor more closely would be helpful. Because I worked for industry prior to becoming an FSIS inspector, and I see it even today. Plants have radios, and they radio ahead and say the inspector is coming. They tell when we're coming through the gate that the guardspeople are told to notify the superintendent that we are on the way.

Mr. ISSA. Ms. Shames, perhaps, from your perspective, is any of this something that from you past inspections that you think you could weigh in on?

Ms. SHAMES. Certainly from our 2004 report we would want to look at the noncompliance records and to see if, in fact, the guidance that FSIS issued subsequent to our report was actually taking some traction and, in fact, if there has been more consistency and more thoroughness in the recording. And the other thing we would be looking for is what USDA and FSIS in particular is doing with that data to see if there are any trends in terms of the violations, the causes, to then be able to take any remedial action.

Mr. ISSA. Thank you, and I look forward to another round. But, Mr. Chairman, I certainly think that this is a great non-gotcha

type of hearing, one in which we are trying to figure out and get answers to how we can improve safety, and I think that is the most important thing this committee can do.

Mr. KUCINICH. Thank you very much.

The Chair recognizes the distinguished gentlelady from California, Diane Watson.

Ms. WATSON. Mr. Chairman, I want to thank you also for holding this important hearing, one of the largest beef recalls in American history.

I'm interested in knowing, do we have to have an Inspector General, Mr. Painter, come in and see if—say we had a video—a video process where we could look in and see what is happening on any normal day. Would we need something like that? Because I'm going to associate it to the fact that we were over in Korea and we were trying to establish free trade. Well, they didn't want our beef because of mad cow; and I'm thinking they really aren't going to want it when they find out that—some of the processing and the tainted meat that is in these plants.

So I was sitting here listening to your testimony, the two of you, and hoping that we could find a way, Mr. Chairman, to enforce the transparency so we would not have to depend on these, shall I say, spared visitations and the fact that I understand that we are under supply of inspectors. And so would we have to have some group come in to oversee?

Mr. PAINTER. Yes, ma'am. I am of the opinion, yes. Because, like I said earlier, someone to be there to physically see what is going on. Because I look at plant documentation, and then I go into the plant. And you may have some trivial things documented, a person that wasn't wearing a pair of gloves, you know, and which may be a plant policy.

When you go into the plant and you may see beaded condensation directly over product, you may see—you may find fragments of metal and ice that go directly onto the product. And certainly that is something that could not be detected under video surveillance, those types of direct product contaminations and the monitoring of surfaces as well for direct product contact.

If someone knew they were under the eyes of a camera regarding the video surveillance of the monitoring of the antemortem pens, I think that would certainly help and certainly be a deterrent. But I don't think it would totally take the place of someone physically going to actually do the antemortem to make sure that what is going on is going on.

I think we saw from the video a lot of these cattle came in on the trailers, that they were actually trained to get off the trailers, that they were, you know, trying to get them to stand by using the batons, to hit them in the eyes and prodding them and, you know, and the cattle just screaming. And, you know, it is like if I could get up, I would. And, you know, if something cannot physically get up, you know, that—money in my opinion is the driving factor.

Ms. WATSON. Let me ask Dr. Raymond. What would you think about video surveillance and some overall agency like the Inspector General taking a look on a random basis?

Dr. RAYMOND. First of all, the Inspector General, of course, is taking a look. It is obviously not random. They are taking a very

long and thorough look at what did transpire at the Hallmark/Westland meat company to try to figure——

Ms. WATSON. Yeah, that one meat company.

Dr. RAYMOND. As far as video cameras, they are used by the industry voluntarily. I can't tell you to what degree of the 18 plants that we did the audits that——

Ms. WATSON. What would you think about compulsory——

Dr. RAYMOND. Pardon?

Ms. WATSON. What would you think about compulsory?

Dr. RAYMOND. I would like to defer giving you my answer until we are done with our——

Ms. WATSON. I mean, what would you think about it? You know, I know you're looking into it, but what would you think about having video, you know, surveillance in all these plants?

Dr. RAYMOND. I think it would be very expensive to do it right.

Ms. WATSON. Oh, so you're going to look at—what about the technology of it? Are you looking at the cost only?

Dr. RAYMOND. No, no, ma'am. But it is not as simple as a camera. If you're going to do 24-hour——

Ms. WATSON. I know all that. But what would you think about having surveillance? I just want to get your opinion. Is it a good way to monitor?

Dr. RAYMOND. Human eyes are a good way to monitor, also; And if the human eyes are working well in the other 800 establishments——

Ms. WATSON. I asked about video surveillance.

Dr. RAYMOND. Pardon?

Ms. WATSON. I asked you about video surveillance.

Dr. RAYMOND. I don't think video surveillance can replace the human factor. The human factor can detect things that video surveillance cannot.

Ms. WATSON. OK. And I understand that we are short inspectors and the agency now, FSIS, is spread too thin at this particular time; is that true?

Dr. RAYMOND. No, it is not, ma'am. Last year we asked for and received \$27.4 million so we could hire an additional 184 inspection work force. At this time, we are above that number. In fact, in December, we were plus 220 inspectors from where we had been the year before. We recognized the shortage last year, and we came to you, and we asked for help, and we got the help. And within about 6 months, we had hired those additional 184 inspectors, which I do believe gives us an adequate work force.

At the current time, we do have a vacancy rate of approximately 6.1 percent. That is the lowest it has been since I have been here, and we are continuing to hire.

Ms. WATSON. These are the eyes you're just talking about. Can these eyes do the kind of inspection that can catch the tainting of the cattle and the mishandling and the working below the standards? Do you have enough eyes now to do that?

Dr. RAYMOND. In this particular plant, we had five full-time inspectors. We had no vacancies. We are trying to figure out how this could happen.

Ms. WATSON. No, not just that plant but the Food Safety and Inspection Service within the Department of Agriculture. Do you have an adequate number now?

Dr. RAYMOND. Yes, we do.

Ms. WATSON. All right. And they are not stretched too thin?

Dr. RAYMOND. There are instances where we have temporary shortages that they are stretched thin. Yes, I will acknowledge that. Our goal is to avoid that.

Ms. WATSON. OK. Do you think that—we're trying to look for solutions; and if you will work with us on that, it would be very helpful. Do you think video surveillance, then, can complete that? If you do have vacancies, then we can use video surveillance. Would that help out?

Dr. RAYMOND. At the current work force that we have today, it would not. Because someone would have to spend their time looking at that camera instead of doing some of the other things—

Ms. WATSON. Yeah, that's what I'm saying. You know, I mentioned—I opened up and said, do we need an oversight agency like the Inspector General called in?

Dr. RAYMOND. And they are our oversight agency, and they do do audits on a very regular basis of the Food Safety and Inspection Service.

Ms. WATSON. Everything is fine? We don't even need to bother about this issue is what I'm hearing you say?

Dr. RAYMOND. No, ma'am. I said—

Ms. WATSON. And you don't need anymore personnel?

Dr. RAYMOND. I said in my testimony that we are looking for ways to always do better at the job that we do to guarantee—

Ms. WATSON. That's what I'm trying to get you to help us with.

Dr. RAYMOND. And you did, when I asked for \$27.4 million so I could hire—

Ms. WATSON. So we have everything we need now. I am wondering how Hallmark and Westland meat packing got into the condition they are in if we have everything we need.

Dr. RAYMOND. We are wondering that, too, ma'am; and that's why we are waiting anxiously for the OIG audit report to tell us how this could happen.

Ms. WATSON. I think my point is being addressed. And I'll just explain to you, Mr. Chairman, I think that we need some way to look at video surveillance to be used at the behest of some agency. Because I don't think that there are enough inspectors or they are inspecting regularly enough. I mean, there is an expose on television all the time, and it is really worrisome to me in terms of our food supply.

I see my red light on. But, anyway, I'd like us to discuss that maybe at another time.

Mr. KUCINICH. I think the gentlelady.

The Chair recognizes Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

You know, one of the things that concerns this subcommittee and the Congress, actually, is that we are seeing what I call a culture of mediocrity when it comes to the trust that—I mean, when it comes to various agencies. We see it—I sit on the Transportation Committee. We see it in the aviation folk who are supposed to be

inspecting planes, and they inspect some and don't inspect others, and the ones they do inspect, they let them fly. We have seen problems at the FDA. We have seen—when it comes to accountability, this very committee has seen a lot of problems with the spending in Iraq.

And, you know, the problem is that in Covey's book—Steve Covey's book entitled *The Dispute of Trust*, he talks about how when people lose trust, it slows the processes down.

And I have to tell you that when it comes to—I mean, while our—you know, our Agriculture Department, the USDA, may be doing the right things. Sadly, because of what we have seen in this case and a few others, that trust is evaporating. And when you think about something as massive as meat on dinner tables and when you just think about just the supermarkets that sell meat, the idea that we have to wonder about whether that meat is fit for human consumption is a major, major, major, major, major problem.

So, Ms. Shames, when the GAO investigated the practice by the USDA in 2004, in a report entitled, "Humane Methods of Slaughter Act, the USDA has Addressed Some Problems but Still Faces Enforcement Challenges." That is a long title. But can you describe for us what recommendations GAO made in that report and which of the recommendations were followed by the USDA?

Ms. SHAMES. We made six recommendations in that report, and they generally fell into two categories. The first category of recommendations was to try to encourage that the reporting on FSIS's part be more consistent and more detailed. So we recommended that there be categories of violations to then better be able to track what was going on. Because we had found that there were inconsistencies.

We also suggested in another set of recommendations that FSIS come up with a means to determine the resources that it needed.

In response, as I said in my statement, FSIS has issued some guidance. They have put in place information systems that are to track the time that inspectors are spending on humane activities. That was mentioned by Dr. Raymond. HPSD is one of those systems.

One recommendation that I feel is outstanding is that we recommended that FSIS do a needs assessment in terms of the work force that it needs. We have been talking in the aggregate in terms of whether or not FSIS has full staffing. That really ought to be disaggregated and look in terms of the veterinarians that it has, the food inspectors, as well as the consumer safety inspectors. USDA data show that there are pockets with some high vacancy rates, and that is something that really I think needs to be done on a wholesale matter. Again, it gets back to human capital challenges that are typical for many Federal agencies.

Mr. CUMMINGS. Now, let me make sure I'm clear what you're saying. You said there were two categories. And I guess your concerns came in that second category; is that right? Did you have concerns in the first category?

Ms. SHAMES. The first category, guidance was issued. But the caveat with that is that we haven't gone back to assess how effectively that guidance is being applied. It is one thing to issue the

guidance. It is another thing to make sure that it becomes inculcated in day-to-day operations.

Mr. CUMMINGS. And how would that normally be done? Because, see, you are getting to the very point that I just made. We can put out all the regulations, put out all the laws we want, but if we don't have anybody enforcing it, we might as well—I mean, we might as well not write them. Is that what you are basically saying?

Ms. SHAMES. Yes.

Mr. CUMMINGS. I'm sure you would have said it better than what I said it.

Ms. SHAMES. No, sir.

Mr. CUMMINGS. So this piece, this second piece, the second—that you just talked about a moment ago about the personnel, how significant is that? In other words, you talked about having—needing personnel. I mean, how important is that? You talked about veterinarians.

Ms. SHAMES. It is absolutely critical. Because these are the individuals that are really looking at the extent to which animals are being treated humanely. It looks to the extent that they are being slaughtered humanely. And, ultimately, it gets to inspecting the meat as it is being processed. These people are on hand to see what is going on as operations continue, so it really is something that requires, you know, onsite supervision, onsite presence.

Mr. CUMMINGS. I see my time has run out. But just one other thing. In 2000—this report came out in 2004; is that right?

Ms. SHAMES. Yes.

Mr. CUMMINGS. And so you mean these recommendations or these requests that you just talked about that fall into two categories, you mean to tell me that, in 3 or 4 years, they have not been carried out to the satisfaction of GAO?

Ms. SHAMES. That is not completely accurate.

Mr. CUMMINGS. Well, make it completely accurate.

Ms. SHAMES. FSIS has implemented action in response to five of the six recommendations, and GAO has closed them out. In other words, we felt that the action was responsive to our recommendations. There is still one open one. We've been discussing with FSIS the actions that we have taken. We're still evaluating to determine if that was really in the full spirit of—

Mr. CUMMINGS. And what was that you're still evaluating?

Ms. SHAMES. It is the last recommendation, and let me read it to you. Is that FSIS periodically assess whether the staffing level is sufficient to effectively enforce the Humane Methods of Slaughter Act.

Mr. CUMMINGS. And can you tell us whether you can assess whether USDA's response to your recommendations have been adequate? So you said you closed them out. Does "close them out" mean, you know, you got 100 percent and I give you an A? Or does it mean that we think you tried, but we are not sure, but we know you tried? What does that mean?

Ms. SHAMES. To close out a recommendation is that an agency was responsive. We don't give any credit for trying or for wanting to do something. In our evaluation, the agency was responsive to what we wanted. We do not close out recommendations if it is not

clear to us that it was fully implemented or that they took one step but not carry it out to the degree that we expected.

Mr. CUMMINGS. And that is where the No. 6 recommendation that you just talked about formed?

Ms. SHAMES. Yes.

Mr. CUMMINGS. All right. Thank you.

Mr. KUCINICH. Dr. Raymond, did you testify today that you believed those bad practices at Westland/Hallmark were an aberration? Did you not say that?

Dr. RAYMOND. I said we were doing enhanced surveillance in all of our slaughter plants, and we're doing the audits to try to determine for sure that was an aberration. I do not believe I said—

Mr. KUCINICH. Were they an aberration or not? Were they or were they not an aberration, the practices at Westland/Hallmark?

Dr. RAYMOND. I know of no other plants that have had that type of activity, but we are trying to determine to make certain that was an aberration, sir.

Mr. KUCINICH. Mr. Painter, did you testify that you believe that the violations evidenced at Westland/Hallmark were not an isolated incident? Did you say that or did you not?

Mr. PAINTER. I'm of the opinion, yes, that is correct.

Mr. KUCINICH. Now, members of the committee, it is troubling to hear two different answers. What is the American public to think when they hear that the top management of the regulatory agency says one thing, while the head of the inspectors of that regulatory agency says another? Mr. Painter.

Mr. PAINTER. I would say, with all due respect, that Dr. Raymond is not in touch with the field; and as I have worked in the field and I continue to work in the field, with all due respect, I don't think he is in touch with the field.

Mr. KUCINICH. Dr. Raymond, let's go to the May 2007, audit and discover what serves as a basis for your previous opinion that Westland/Hallmark was in compliance with humane animal handling laws. How much of the May 2007, audit's findings and conclusions is based on direct observation by USDA auditors and how much is based on assertions made by plant's management?

Dr. RAYMOND. The auditing was there for the full day; and observations were made of the handling of, I believe, 100 head of cattle. Observations were made in improvements that were made in the safety of the pens based on recommendations from the previous audit. Some observations were made of stunning—inadequacy of stunning. There were also—you know, there was input from the plant regarding some paperwork that is required that we did review. We were there for just that 1 day, sir.

Mr. KUCINICH. Let's get into this a little bit more. Let's talk about some specific findings.

The audit notes that, "per establishment managers, all employees who handle livestock get humane training at least monthly." Again, per establishment managers. However, in a conversation with subcommittee staff, the Humane Society undercover investigator said he never received any formal training. Instead, a plant manager gave him an employee handbook and an informal run-through the materials which lasted about 5 minutes. So, Dr. Raymond, were your auditors right to believe what plant management

reported or were they not right to believe what plant management reported?

Dr. RAYMOND. They had no evidence or reason at that particular time to not believe what the plant reported to them.

Mr. KUCINICH. Was it sufficient to base their assessment on the assertion of the plant management? Is that sufficient?

Dr. RAYMOND. Our assessment was of the humane handling system of that plant and the physical plant. Our assessment does not involve how many hours or how much detail is spent in training the employees. It is the outcome. It is the results that we are interested in.

Mr. KUCINICH. Now, isn't it true that the video makes it indisputably clear that Westland/Hallmark violated Federal law?

Dr. RAYMOND. Yes, it does, sir.

Mr. KUCINICH. Now, a picture is worth a thousand words; and, in this case, the words of plant management weren't worth very much, were they?

Dr. RAYMOND. That's correct, sir.

Mr. KUCINICH. So, in light of this, you should be able to answer confidently that FSIS inspectors should have done more to determine compliance, rather than just take management's word for it. Is that or is that not correct, Dr. Raymond?

Dr. RAYMOND. In the May audit, there was no evidence of any inhumane animal handling that we found at the time of the audit. And so to assume plant management is telling the truth, I think you have to have an element of trust.

Mr. KUCINICH. Are you saying that the circumstances in May and November are not related, then?

Dr. RAYMOND. No, I'm not, sir. But I'm—of all the audits that we do, of all the plants that we are in, for all the reasons that we are, we have to have a working relationship with plant management. We have to have an element of trust, but we are there to verify that trust. In this case, we were—we did not verify that we shouldn't be trusting them, and we're trying to find out why that happened.

Mr. KUCINICH. Mr. Painter, trust—you're an inspector. When—can inspectors just go to the plant, and the plant says trust me?

Mr. PAINTER. We are to work with the plant to meet regulatory compliance, but the plants are there to make a profit. We are there to regulate the people. And, as I testified to earlier, what you see in the plant does not look like their documentation. So, you know—

Mr. KUCINICH. What does that mean, then? If it doesn't look like their documentation, what are you suggesting?

Mr. PAINTER. Their documentation, if any, will show minimal or trivial issues, nothing that would be major, nothing that would get them shut down, nothing that would produce major violations.

Mr. KUCINICH. Do they know you're coming?

Mr. PAINTER. Oh, without a doubt. I have physically been standing by a supervisor in a plant before, and I am hearing the radio, beware, Stan is coming your way.

Mr. KUCINICH. If you show up announced, is that any different than if you show up unannounced?

Mr. PAINTER. Well, I was trained as an inspector that you do two things. No. 1, you be consistent on your calls. If you call a violation today, you call it tomorrow. And you be inconsistent on your visits. But we—especially in processing facilities, we are one person, and they have radios, and the supervisors, you know, let each other know when you're coming when you come in the door.

Mr. KUCINICH. So if they know when you're coming, they can talk together and say, hey, watch what you are doing when the inspectors are here? Does that happen?

Mr. PAINTER. Yes, it happens. It happens often. And, as I said earlier, I worked for industry prior to becoming an—becoming an FSIS employee and, you know, I kind of know the inside workings of the plant operations.

Mr. KUCINICH. These May and November incidents, are they comparable? The May incident, November incident that this committee has been talking about, are they comparable?

Mr. PAINTER. I'm sorry. Could you be more specific, please?

Mr. KUCINICH. Let me go on. I want to talk about the—given your extensive experience at slaughterhouses—the USDA audit notes that, per establishment managers, if a nonambulatory cow is on a trailer and arrives at night, it is euthanized in its place by an establishment employee. However, the undercover investigator explained to my staff, in many instances, that downer cows were stacked on one side of the truck, that were dragged off—and that were dragged off the truck, rather than euthanized. What do you have to say about that?

Mr. PAINTER. That doesn't surprise me at all.

Mr. KUCINICH. Dr. Raymond, were plant managers telling the truth to your auditors?

Dr. RAYMOND. No, they were not, sir.

Mr. KUCINICH. Let me point out another incident to you, Dr. Raymond. In a 2007 audit, the USDA notes that, per establishment managers, a number of changes have been made to address the non-compliance and concerns—that is about the excessive prodding—identified during a previous verification visit. In contrast, the undercover investigator told my staff he had personally witnessed the electric prods that were systematically, rather than exceptionally, used on animals while they are in the chute. Dr. Raymond, were the plant managers telling the truth to your auditors?

Dr. RAYMOND. No, they were not, sir.

Mr. KUCINICH. So would you say that your auditors rely on assertions made by the management of the plant they are auditing to draw conclusions about compliance with the law? In other words, your enforcement of humane animal handling laws relies on the self-interested assertions of management of the plant that you are auditing; isn't that right?

Dr. RAYMOND. No, it is not—it's not—no, it is not, sir. That's why we have the inspection work force in those plants on a continuous basis when the plant is operating, so we can verify what the plant is telling us.

Mr. KUCINICH. Mr. Issa.

Mr. ISSA. Dr. Raymond, I know your answers are not necessarily as somebody skilled in business practices and what is in the good—best interests of a beef slaughterhouse or any other kind of oper-

ation, but you certainly can appreciate a couple of things, and I'll run you through them, and if you feel uncomfortable answering them, just tell me.

But whether it is bone chips, metal chips in hamburger or E. Coli in beef products, including hamburger, isn't it basically in the slaughterhouse's best interest to catch that? I mean, essentially, there is nothing to be gained by sloppy work that leads to large-scale recalls or shutdowns of their facility on a net basis, wouldn't you say?

Dr. RAYMOND. Absolutely. And the great majority of our slaughterhouses and processing plants would agree with you, also.

Mr. ISSA. Although I have never visited this slaughterhouse, I have been to the one in Brawley in the 2003/2004 timeframe. It is a co-op unit but very large. And, you know, I was impressed. I had worked for a rabbi growing up in Cleveland in a very small slaughterhouse and, by definition, attempting to be humane. And—but I was impressed with the professionalism, the chemicals, their cleaning cycles, everything they did to try to make sure that, on a 24-hour cycle basis, they delivered absolutely safe meat products.

Can we and should we as a government either assist them in some way or mandate them in some way that they improve the tools at their disposal so that, in fact, they can catch these problems?

And I'm going onto the food safety for a moment and leaving humane for a moment. But these large-scale recalls, particularly of hamburger, although it is not your area, the widespread recall of spinach last year—or year before last—in which we knew or should have known where it came from and yet we recalled it all, aren't these all signs that the Federal Government needs to intervene at some level to assist or to promote behavior that is in their best interest?

Dr. RAYMOND. Yes, sir. And I do believe that we actively do intervene with the industry, sometimes through recommendations, sometimes through rules and regs and sometimes through statute. And I find the industry for the most part to be very cooperative. They do want a safe product. They do not want the embarrassment or the cost of a recall, and they certainly do not want people getting sick from eating their product and losing confidence. As Mr. Cummings mentioned, confidence is important. It is not important when you keep reading about recalls.

Mr. ISSA. You know, I guess it was now a year before last when the tainted or E. Coli-tainted spinach was recalled. Although that is not your side of USDA. My understanding, we knew right down to the field based on the bags where it came from. And yet I was told there wasn't sufficient confidence in the data base to only recall that product but, rather, we recalled it all. And for several weeks there was no spinach available anywhere in America.

On the government side, on your side of the house, can you say with confidence that wouldn't or shouldn't happen with meat products, that you can—you do have the tools you need or the industry provides the tools that would allow you to isolate these problems down to only the area of recall that needs to occur?

Dr. RAYMOND. We aren't there yet. We're getting there. We are doing better. We have more tools now than we had a while back.

The spinach was discovered because of something called PulseNet, which is a cooperative venture between the USDA, the FDA and the CDC. It used to be those were sporadic outbreaks, never linked to a farm in California.

It is the same with beef. Oftentimes, we have a recall that is for 1 day's lot production or sometimes even just a portion of a day's production based on recordkeeping of the plants. Other plants, unfortunately, have recordkeeping that is less than stellar.

An example would be the recall for Tops last year that went back for a whole year, and that was because of inadequate recordkeeping. When that happens in a plant, our confidence goes down, the recall gets big, and the plant generally closes.

But, again, if you look at our recalls, you'll see many of them are for one production date from one plant. And we do the best we can, and we try to trace back from not only the processing plant that may have been in the hamburger, but the slaughter plant that provided the carcass that was contaminated with E. Coli as a result of the slaughter process. We try to get upstream and work with those plants, also. So sometimes there will be two recalls due to one product.

Mr. KUCINICH. Now, today, RFID chips can cost roughly a dollar a chip, but there are new technologies that have been publicized with a 10 cent RFID chip. Do you believe that this Congress and this government should start looking at that level of unique IDs so that in fact—we'll call it 10 cents a bulk package or perhaps even 10 cents an individual package—we can track with specificity a serial number that can be electronically checked right at the check-out register?

Dr. RAYMOND. If you're talking about animal ID, at this particular time, animal ID, in the opinion of the USDA, is it is a voluntary program, and it is growing on a regular basis with a number of establishments.

As far as establishing food as it goes through the chain to where it can be identified at the store where it was bought, I have seen that technology. I do not—I do not know that we have taken any particular position on that at this point in time.

Mr. ISSA. If you don't mind, when you go back, if you can see what additional thoughts you have on the feasibility. Because I'm very interested in whether or not the ID systems that, for example, UPS and FedEx use so successfully to tell you exactly which truck and which location, even down to a GPS coordinate your package is, it seems like if the private sector is doing that in one area, can we as the government implement it or cause it to be implemented so as to dramatically reduce the amount of a recall if, in fact, what we are talking about is one shift line, one part of 1 day?

Dr. RAYMOND. We can look into that. I believe anything we can do to make recalls more efficient, more effective is good. I don't like recalls, but as long as we are going to have them, I want to make sure we do them better.

We're having a 2-day summit in May where we'll bring all of our public health partners, the consumers and industry together to take a look at that specific topic. And we also, of course, as most everyone in this room knows, are trying to get a final rule to be

published that would identify retail stores, the time of a recall; and I believe that would be another benefit to the consuming public.

Mr. ISSA. OK. Last question for me on this round.

The test for E. Coli particularly, getting tests that are, if you will, more advanced, whether they are chemical, electro fiber optic, whatever, so that we can be looking right down to the meat slicer as it passes the assembly line, the whole process, how much—and I know that is not, per se, your exact line, but it is obviously symbiotic to you. How much of that should Congress be funding? How should we do it? How soon can we see, if you will, advancements that would allow us to know that food safety—essentially, that a food hasn't gone bad or hasn't been tainted in a more advanced way than we do today so that we could, you know, essentially get down to quality control, sort of like when you want to candle an egg to figure out, you know, whether it is good or not. Do we have that technology on the horizon and should we be contributing to that process?

Dr. RAYMOND. That technology, sir, you do contribute to; and it is improving. The research service which is part of the USDA is doing extensive research in that area which Congress is funding. You're also funding us for the large amount of surveying that we do, the surveillance that we do through testing for listeria, monocytogenes, escherichia Coli 157:H7, salmonella, campylobacter and other pathogens and residues.

When I say it is getting better, it wasn't too many years ago that it took at least 48 hours to turn around an E. Coli test. That is a long time for a plant to hold product, especially if it is a large plant that is making maybe a million pounds of ground beef a day. And that is product they have to have refrigeration for, and they certainly aren't selling it, and it is becoming less fresh on a daily basis.

We now have that technology down to what we use is about 8 hours. I have had industry come in and show me a 4-hour test that could be turned around. You know, if we can get to where we do that in the plant, then all plants should hold and test the product.

We had 21 recalls last year for E. Coli, and 11 of those were for a product that tested positive. There were no illnesses associated with that we know of, but it was out in commerce, and we know that it tested positive. If we could get all plants to hold and test by having more rapid technology that could be done in plant, that is 11 recalls that aren't going to happen and that is 11 times the American public won't be exposed to that.

So, yes, sir, you are helping us, and I thank you for that, and we are making progress.

Mr. ISSA. Thank you, Doctor. And I hope we can underline this part, that, in fact, if there is a 4-hour test we could, in fact, see 100 percent testing before hamburger and other appropriate meats leave the plant so that we would prevent, as you said, 11 recalls that occurred last year.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes Ms. Watson.

Ms. WATSON. Mr. Chairman, I was sorry that I was late coming in.

But, Mr. Painter, when I came in, I thought I heard you talking about your personal experiences with the agencies and their treatment of whistle-blowers. And we don't have to go over all of that, but I think you said that the chilling effect of the inspection or the investigation of the whistle-blower allows bad practices to continue.

And, Dr. Raymond, in speaking with you, you mentioned the cost when I talked about video surveillance. I'm curious to know why the focus would be placed more on the whistle-blowers than on the procedures that are used in these slaughterhouses. Why are the whistle-blowers investigated? You can't trust them or you feel that they are not really doing thorough inspections enough? What is going on there?

Mr. RAYMOND. Well, Ms. Watson, this is one area where Mr. Painter and I do have a difference of opinion, although we agree on a lot of things, and I think we work together well. I'll give you some examples.

Last year, we suspended 66 plants. That is 66 plants that didn't have inspections, so they could not process, could not slaughter. That is a huge economic impact on those plants. And that is because of the good work of our inspection work force that found reasons to suspend.

Of those 66 suspensions, 12 of those were in slaughter plants for non—for inhumane handling practices. That is an inspection work force that is seeing something that is egregiously wrong and saying, we are going home. You're shut down for the rest of the day. Those cows in the pen, you'll have to find something else to do with them, because we're going home.

And I don't believe the entire work force is cowering from us. I get regular e-mails from our work force telling me things they want to see done differently. I don't think they are afraid to e-mail me.

I don't know Mr. Painter's experience back in 2004. I was not here then. He and I have talked about it.

Ms. WATSON. Let me see if I can make a distinction between those special forces and a whistle-blower. Do you make a distinction between the two? Is the whistle-blower in a different category than these special forces?

Dr. RAYMOND. A whistle-blower is someone—I don't know the exact definition—but is someone that sees something that is wrong and wants to bring it to someone's attention who can correct it. And Mr. Painter used the example of inadequate removal of specified risk materials, of which there were 1,000 noncompliance reports written out of 8 million procedures done that year. That is 1,000 times our inspectors saw a problem and wrote it up.

As long as we want to talk about whistle-blowers, if Mr. Painter has evidence, as he has indicated, that there is egregious behavior going on in plants like we saw on this Hallmark, it is their obligation to bring that to our attention. So that is inhumane handling, and it is against the law, and we will act on it if it is brought to our attention.

Ms. WATSON. Mr. Painter, maybe you can help me understand. Because I hear a little difference between what is perceived as a whistle-blower and a special force. Can you help me understand the difference?

Mr. PAINTER. Yes, ma'am. Not only in my case but in other cases as well, this agency has traditionally gone after the whistle-blower; and there is a definite distinction between the whistle-blower and the agency taking regulatory action on something, you know, based on noncompliance reports and things of that nature.

You know, when you go directly to someone in Washington and tell them there is a problem and they don't want to look into the problem, they only want to investigate the individual—I went through 9½ hours of interrogation and interviews based on this issue; and, instead, the agency should have been out looking at the problem instead of trying to haul me in to interrogate.

And there has been a number of people in the field that have said my inspectors that I represented, they say we don't want to have to be hauled into Washington to have to go through what you went through.

Ms. WATSON. What really bothers me—I'm a consumer born in the city. You know, I don't go out to slaughter plants, hardly know what a cow looks like except what I see on a milk carton, you know. But what does bother me—I watch a lot of television and get caught up—you know, there is always a revelation of what is going on in these places.

And I really think our food supply is very vulnerable at this particular point. We talk about protection of our homeland from terrorists. Boy, if they can put a few of these people in our slaughterhouses and allow for poisoning and contamination, we are in real trouble; and, as a consumer, I think we need to really, really focus the light on this. So that is why I started off asking about video surveillance. To me, that is focusing the light on.

And, Dr. Raymond, you said the cost. Well, you know, you have to choose priorities. That is what we do. We, the policymakers, have to set priorities in our budget; and I don't think there is any other higher priority than protecting the integrity of our food supply.

If somebody sees something wrong and reports it, why would you spend all that time and money investigating the whistle-blower and not the problem that the whistle-blower is identifying? Can you explain that to me? As I said, I'm an urban dweller. I don't know a lot about this.

Dr. RAYMOND. I'll try to do it from a—coming from a slightly different angle.

In this particular plant, Hallmark, in the largest meat recall in history, which I hated to be the undersecretary during that time, it was not about food safety. It was not about tainted meat. It was about a plant that did not follow the rules. And because the plant did not follow the rules, we took swift and decisive action and pulled the inspection from that plant; and, of course, it has since gone out of business. It was not about food safety. It was about rules and regulations. We had five inspectors there for food safety—

Ms. WATSON. Hold on. I need to understand. What are the rules and regulations? They all go to food safety, don't they?

Dr. RAYMOND. In this particular—

Ms. WATSON. They all go to food safety, don't they? Yes or no?

Dr. RAYMOND. I don't know that I would say yes.

Ms. WATSON. Why do you promulgate standards when you're working with food and they don't go to keeping that food safe, the integrity of that food?

Dr. RAYMOND. The majority are for food safety. Some are for our workers' safety. Some are for—you know, for—the majority is for food safety, yes.

Ms. WATSON. So the product that they produce will be safe for consumers. I'm one of those consumers.

Dr. RAYMOND. Yes, ma'am. So am I.

Ms. WATSON. So I think we are talking about the same thing. And if—OK, let me have you go ahead. I'm trying to really understand this.

Dr. RAYMOND. If they did not follow our rules, it was a rule that was put there for food safety, yes, as part of an interlocking system which I will go into, if you would like me to. But, first, I really want to say this was a humane handling issue. It was not a food safety issue. Our inspectors—

Ms. WATSON. Humane handling is a food safety issue? Is humane handling of cattle a food safety issue? Humane handling?

Dr. RAYMOND. Humane handling is—yes, it can be. Our five inspectors that were there were not only in charge of humane handling, but they are also there to make sure that the Federal Meat Inspection Act was being followed and that our rules and regulations were being followed.

In the last 3 years, those inspectors condemned about 16,000 cows that went into that plant because of very obvious food safety issues, diseases, tainted meat, etc. That is 1 out of every 20 cows that went in there did not enter the food supply that you and I would eat. On a very rare occasion there was a cow that did enter the food supply that had been examined by the veterinarian, was considered to be healthy enough to enter the food supply and then subsequently went down and did not get back up.

And by our rules, the only way that animal can enter the food supply is that the veterinarian comes back out and determines there was an acute injury, and they did not follow that step, and that's what the recall was all about. It wasn't—it wasn't about the stuff that we saw on the video with those cows that were terribly old and terribly sick and terribly weak that were being terribly mishandled. Those cows did not go into our food supply.

Ms. WATSON. Well, taken as a whole, I would think that standards are a major part of the inspection to be sure we have a product out there that we believe has integrity. I think following standards—you've got to take this all as a whole.

Mr. Painter, why do you think that you were under such interrogation for 8 hours? Was there intimidation involved?

Mr. PAINTER. Most definitely, from the get-go, you know.

Ms. WATSON. Why?

Mr. PAINTER. I'm sorry?

Ms. WATSON. Why?

Mr. PAINTER. Like I said earlier, I have been with this agency almost 23 years; and, in my career, anytime that a person has blown the whistle regarding a problem, the agency has always, always gone after the whistle-blower. And I have—you know, instead of looking at the problem, they go after the whistle-blower. And it

seems to me that the reason—I can't—I can just speculate as to a reason why it is easier to shut that one individual up or a few individuals versus make a change nationwide.

Ms. WATSON. Because it might mean a matter of their profit, right?

Mr. PAINTER. It could be for plants, correct.

Ms. WATSON. You know, I have really been concerned lately about the greed factor in this capitalistic system of ours in many other areas beside consumable goods, edible consumable goods. There is a greed factor. And the more I look at this—and, remember, I'm the city girl. The more I look at this, the more I see that we are really not focusing on the integrity of the product that comes out of the slaughterhouse and we are looking on, you know, let's just keep things as they are, guys, and look the other way. That is what I'm hearing from you.

Now if you want to try to narrow my perception and get it more along with yours, speak up. Because I'm hearing that we would rather protect these plants rather than the people that we send in to inspect them and we take that input and we start doing something about the problems.

I'm horrified when I hear about these recalls, because I'm seeing how many thousands and ten thousands of consumers have taken these products believing that stamp on them means that they are OK. And what will the effect on whatever the product is, if it is edible, what is the effect going to be? And so I'm wondering how do they get by with this so long until somebody blows the whistle and they get caught.

So what I'm hearing today is that the whistle-blower is the one that is looked at and intimidated and maybe the message there is that, you know, just keep still.

Mr. KUCINICH. The gentlelady's time has expired.

Mr. Cummings.

Mr. CUMMINGS. I'm going to be very brief, but I have to tell you I'm confused. I mean, I have listened to this testimony, and I have tried to kind of put it together, and there is something wrong with this picture.

On the one hand, we have our witness from the GAO talking about an employee problem; and I guess she is still trying to figure that out. And when I came in, Mr. Raymond, you were talking about how wonderful it is that you have all the employees you need and all the inspectors you need; is that right? Am I correct about that, Mr. Raymond? Do you have enough inspectors? You were ranting about it when I came in here.

Dr. RAYMOND. Yes, we are always re-assessing our needs. But at this particular point in time, I feel confident in saying that we have the inspection work force that we need, sir.

Mr. CUMMINGS. And I'm looking at this report from Ms. Shames; and this is dated Thursday, April 17, 2008. And I'm looking in this report; and it says some very interesting things, Mr. Raymond. It says—on page 8, it says, while FSIS's budget authority has significantly increased since the late 1980's, the number of SIS employees has declined. It is shown, in figure 2, for fiscal year 1995 to fiscal year 2007, the number of full-time employees at FSIS fell from

9,600 to about 9,200, or 4 percent. Vacancy rates across FSIS have declined about 7 percent. OK. That is OK.

Then let's go to page 10. It says, meat and poultry consumption in the United States has increased sharply. The quantity of meat and poultry inspected and approved by the agency has increased from about 65 billion pounds in 1988 to more than 100 billion pounds in 2007.

And I'm just trying to figure out—on the one hand, Ms. Shames, you're saying that you question whether or not there are enough employees or you just haven't been given enough information yet.

Ms. SHAMES. Right.

Mr. CUMMINGS. So you don't even—although you're sitting here today and Dr. Raymond is—is this your first knowledge that they have enough employees? I mean, has somebody told you all, GAO, we have enough employees before today?

Ms. SHAMES. We were going by the data that was presented by the USDA in the government's budget, and those are the trend lines that we presented in the statement today.

Mr. CUMMINGS. You've got to keep your voice up. I'm sorry.

Ms. SHAMES. I'm sorry. The data that we present in the statement today are from the U.S. budget. So these are actual figures that USDA has reported.

Mr. CUMMINGS. So help me, Dr. Raymond. Help me with this. I know I'm missing something.

Dr. RAYMOND. First of all, sir, there are a lot fewer plants today than there were back in 1995, where this reference is to—that the GAO had made. A lot fewer plants, a lot more efficiencies, a lot larger plants. It doesn't take as many inspectors to do the poundage that goes through a large plant as it does inspectors to take care of very small plants where they have to travel from plant to plant.

Mr. CUMMINGS. I want you to hold that thought right there. I don't want you to lose your train of thought. I want you to hold it.

Because you've got sitting right next to you Mr. Painter, and he is shaking his head as if it is going to fall off. So I need to hear what he has to say, and then I want to hear your other points so I can hear what he has to say.

Because this is what it is about. We are trying to get to the truth. Because people's lives depend on it. And I just want to hear the truth because we cannot solve a problem unless we know what we are dealing with. And there is something wrong with this picture. Something doesn't smell right. No pun intended.

Mr. PAINTER. Yes, sir. And I appreciate you. My body language is hard to hide.

Mr. CUMMINGS. It is all right. You were dancing then.

Mr. PAINTER. I can tell you where the money is going. The 20 to 25 percent of the budget—I mean, 20 to 25 of the numbers the agency give you are management people. They are management people that are not doing any inspectional duties in the field.

You know, a number of years ago, the first President Bush gave a mandate, cut numbers in Washington. They did. They just sent them all to Omaha, Nebraska, and developed a technical service center. And I would imagine President Bush's mindset was cut numbers, period. They just moved them. And, you know, we have

basically one manager for every three field inspectors. That is where the money is going. The money is increasing, but every time the money increases, we see more managers.

Mr. CUMMINGS. And so what you are saying is you need more field inspectors?

Mr. PAINTER. Yes, sir, that is correct.

Mr. CUMMINGS. And how did you come to that conclusion and why do you say that?

Mr. PAINTER. Well, it is the agency's numbers. The agency just printed in a publication called the Beacon. It is a publication that comes out monthly, and it gives the breakdown. It gives the breakdown of how many field inspectors that you have. And in a recent publication of the Beacon, there were 9,996 employees, and about 7,500 of those employees were field inspectors. So, therefore, approximately one-fourth of the agency is management people, which the field inspectors are—about 75 percent of the field inspectors are GS-7s. You know, they start out as a 5, and after a year you go to a 7.

And, you know, the agency first started the districts in 1997, and there was a district manager and one deputy. Now in some locations you have as many as five levels of district managers at GS-14 and GS-15 pay making \$100,000 a year. There is where the budget is going.

Mr. CUMMINGS. And I would take it that what we need is—and so if you had more field inspectors—and correct me if I'm wrong—we could do more inspections? Is that a conclusion—a reasonable conclusion?

Mr. PAINTER. That is correct. For what we are paying one deputy district manager in a district office, we could hire about four field inspectors.

Mr. CUMMINGS. And that makes a big difference, doesn't it?

Mr. PAINTER. It most certainly does, yes, sir.

Mr. CUMMINGS. All right. Now we are back to you, Dr. Raymond. Go ahead. I want to make sure that we stay on target here. I don't—you know, we just have one time to do this hearing, so I want to make sure we get all the information out.

Dr. RAYMOND. Well, as I mentioned, there are a lot fewer plants now than there were. So that takes a lot fewer inspectors.

Mr. CUMMINGS. But does it take a lot more of these managers?

Mr. KUCINICH. Would the gentleman yield?

Mr. CUMMINGS. Yes. Of course.

Mr. KUCINICH. I just want to point out something to my colleague in light of the GAO report. The GAO report says that the quantity of meat and poultry inspected and passed by USDA has grown. So you might have less plants. People aren't eating less meat and poultry unless they are vegans. Now, Mr. Cummings, I just want to point that out, because that is quite germane to your line of questioning there. You know, I don't want to say that the gentleman is not forthcoming when he says that. But, you know, you have to admit that this report by GAO is correct when they are saying that the quantity is growing. You might have fewer plants, but you have more quantity.

Dr. RAYMOND. Yes, sir. And the great majority—

Mr. KUCINICH. I yield back to the gentleman. Thanks.

Mr. CUMMINGS. Thank you.

Go on, please. No, I want to hear this.

Dr. RAYMOND. Of our plants that we have, about 2,500, 2,500 are very small plants. These are plants of 10 or fewer employees. Another 2,500 are small plants. And then we have a small number, less than 1,000, that are large plants. But the large plants are becoming larger and more popular and more frequent.

The very small plants are visited by a roving inspector once a day, once a shift; and they spend a lot of time on the road driving from plant to plant. So if you have four small plants that each are making 10,000 pounds of hamburger a day, that's 40,000 pounds of hamburger that is inspected by that inspector. If those four plants close and the big plant down the road starts slaughtering those few cows, that is just a little bit more ground beef out of the overall product that is done in that plant. It is more efficiencies—

Mr. KUCINICH. Will my friend yield one more time.

Mr. CUMMINGS. Of course.

Mr. KUCINICH. I want to share with my friend these numbers. 11981—181 inspectors for 7 billion pounds of meat, excuse me, that's 1 billion. That's 1 billion—is that right, 1 billion? 181 inspectors, to 1 billion pounds of meat. In 2007, 88 inspectors to 1 billion pounds of meat. I just want to share that with my friend.

Mr. CUMMINGS. Why is that?

Mr. RAYMOND. If a plant is slaughtering 400 cows an hour. And when you go to a public health veterinarian to observe those cows in motion to declare them fit for consumption and he does it 8 times a day observing those cattle in motion, that's one public health veterinarian doing that work. If there is a plant that slaughters 10 cows, and one plant that slaughters 20 cows in another town that probably has to get the both of those to examine 30 cows for his day's work as compared to examining 4,000 cows in a large plant. It is efficiencies.

Mr. CUMMINGS. And I—OK, I understand.

Mr. RAYMOND. The other thing I would like to mention, sir, just to make sure it is on the record, that last year we did request from Congress \$27.4 million to hire 184 more front line inspectors, primarily GS-7s and 5s. And that did increase our work force. We acknowledged that we were short, we worked with Mr. Painter. We acknowledged we were short, we came to Congress, we got the money, and we have increased and I think if you read the GAO report we are still below where we were in 1995, but we're as high as we have been in the past 10 years for the number of personnel. At the time we hired those inspectors—Stanley, let me finish—we did decrease by 200 FTEs the number of employees within central office. We did not hire more managers, we decreased the number of people in central office, and in the last 10 years, we have also decreased the number of districts, therefore, fewer district managers.

Mr. CUMMINGS. And does that include Omaha?

Mr. RAYMOND. In what way?

Mr. CUMMINGS. Well, he just said that you all moved—

Mr. RAYMOND. Well—

Mr. CUMMINGS. You know what, I don't want us to get caught up in semantics, and then you say one thing and it means something else.

Mr. RAYMOND. Yes.

Mr. CUMMINGS. He just said that when they said reduce central office you all just moved these top heavy people to Omaha, is that what you said Mr. Painter, a lot of them; is that right?

Mr. PAINTER. That is correct.

Mr. CUMMINGS. What I'm asking you, is you just kindly, Dr. Raymond, gave me a wonderful statement about how you all are reducing folk. I want to make sure that doesn't mean that you all put them on a plane and send them to Omaha.

Mr. RAYMOND. Mr. Cummings, let me give you the exact numbers of who came from where that went to the technical service center at Omaha, it was before my time, so I can't give you the exact numbers but they didn't all come from D.C. they came from some other offices that we are closing down throughout the country. And it is fewer people in Omaha now than it was 3 years ago when I took this job and I will get you the numbers.

Mr. CUMMINGS. Yes, do that for me. I know we have two more panels.

Mr. KUCINICH. Yes, we have two more panels.

Mr. CUMMINGS. Let me say religiously in here, you know, one of the reasons why I'm concerned about this culture of mediocrity is because what it does, eventually the rubber has to meet the road, and sadly when the rubber meets the road in so many of our agencies, we discover there is no road. We saw that in Katrina, and we are seeing it over and over and over again and we are waiting—we have a catastrophe waiting to happen.

And I guess what I'm saying to you is that I think we need to probably do some evaluating, because I think Mr. Painter makes a very good point. And I don't know whether you all do analysis of exactly how to disburse your personnel, but I think we need to have as many inspectors as we possibly can, because what we are seeing over and over again throughout our agencies is a failure on the part of government to do what government is supposed to do. And I'm telling you, I'm telling you, you know, we worry about the enemy outside of the United States, at this rate we've got some enemy problems right here. And I'm not saying I don't know exactly where all of them are, but—I'm almost finished, Mr. Chairman.

Mr. KUCINICH. That was not intended.

Mr. CUMMINGS. I'm sorry.

Mr. KUCINICH. That was not intentional, go ahead.

Mr. CUMMINGS. Oh, what I am saying is that if our people cannot go to the supermarket and get food that's fit for consumption, that's a major problem, that's major. And so all I'm saying is that it is one thing to have the resources, it is another thing to use the resources effectively and efficiently, period. And it sounds like that might be, there might be a problem. Now if there is a problem, I think it is better to err on the side of at least doing an analysis to figure out effectiveness and efficiency as opposed to not doing it. And so it's nice to have people walking around managing, but if you don't have the people there on the ground where the rubber is

supposed to be meeting the road, that's a major problem. Thank you, Mr. Chairman, thank you.

Mr. KUCINICH. I want to thank my colleague for his participation and the GAO report's instructive here because they have put Federal food safety enforcement on their high risk ratings for 2007, which has implications because that's kind of a danger watch. And so this committee, with your help, is going to—really is that a fair characterization to GAO?

Ms. SHAMES. It is certainly an area that we feel deserves a lot of attention and a lot of oversight, yes. And we will be reporting out periodically for each new Congress as far as the progress that's made.

Mr. KUCINICH. This subcommittee is going to maintain its oversight responsibilities. Mr. Cummings, did you want to comment?

Mr. CUMMINGS. Yes, just one thing. So Ms. Shames, does that mean that they are like—these warning signals out there, I wanted to see red lights flashing, but is it like at least yellow lights flashing saying, watch out, we may have a problem. And if this problem is what it could be, a lot of Americans could be harmed; is that a safe statement?

Ms. SHAMES. Yes, we place Federal oversight of food safety on a high risk list based on over 30 years of our work that found that ineffective coordination, inconsistent oversight, inefficient use of resources led to problems in terms of consumer confidence and food safety.

Mr. CUMMINGS. Based upon what you just said and what the chairman said, Dr. Raymond, it seems to me, it seems to me that I would be working night and day, day and night trying to figure out that thing that I talked about a moment ago, effectiveness and efficiency. Because let me tell you, one thing that's happening here and this hearing is evidence of it, is that you cannot say you have not been warned. You cannot say that it has not been placed out there in the universe and in the Department's head that there are—that people are worried, honorable people like the GAO and others and Members of Congress are worried about what's happening.

I hope that—I pray, I pray that nothing happens, but I don't want anybody coming back here saying that you weren't warned. Thank you, Mr. Chairman.

Mr. KUCINICH. I want to thank the gentleman. Before we dismiss this panel, I want to say that our colleague, Congresswoman Watson, raised some interesting points in the questioning of Dr. Raymond. We cannot decouple humane handling from food safety issues. I just want to make sure that Dr. Raymond would agree with that observation.

Mr. RAYMOND. Yes, I do agree, sir.

Mr. KUCINICH. I appreciate that. I want to thank the first panel, you've been on deck here, you've been with us for almost 3 hours now. We—given the seriousness of this subject the committee staff will submit other questions to you for followup and we are going to maintain oversight on this matter. I'm going to dismiss the first panel and with our appreciation for your participation and call the second panel, thank you very much.

[Recess.]

Mr. KUCINICH. The committee will come to order.

I would like to introduce the second panel, we are fortunate to have outstanding witnesses from the second panel. I'll make some introduces and then we'll swear in the witnesses. Mr. Bev Eggleston is the owner of Ecofriendly Foods which is a slaughterhouse and meat processing facility in Moneta, Virginia. Ecofriendly Foods offers custom USDA inspected and organic meat processing to many restaurants and to consumers through home buying clubs and farmers markets.

Joel Salatin; is that right?

Mr. SALATIN. Yes.

Mr. KUCINICH. And his family operate Polyface Farms in Virginia, Shenandoah Valley, they diversified a grass based livestock farm. Polyface has been featured in National Geographic, Smithsonian, New York Times, Washington Post, countless video, radio and other print media, he has authored six books, the latest being "Everything I Want to Do is Illegal, More Stories from the Local Food Front."

Mr. SALATIN. Thank you.

Mr. KUCINICH. Mr. Patrick Boyle is the CEO and president of the American Meat Institute. AMI is the industry's national trade association, it conducts government and media relations programs, scientific research and educational activities and annual trade show events. They do this on behalf of the Nation's \$95 billion meat and poultry industry. Mr. Boyle serves with the Secretary of Agriculture and the U.S. Trade Representative on the Agricultural Policy Advisory Committee. He is a member of the U.S. Chamber of Commerce Committee of 100 and is a director of the American Institute of Wine and Food. It is a good panel. I want to thank the gentlemen for being here today.

It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I would ask that you rise now and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that the witnesses have answered in the affirmative. As with panel one, I am going to ask each witness to give an oral summary of your testimony and keep your summary under 5 minutes in duration. I want you to bear in mind that your complete written statement will be included in the hearing record. Let's begin with Mr. Eggleston, thank you very much for being here.

STATEMENTS OF BEV EGGLESTON, OWNER, ECOFRIENDLY FOODS, LLC; JOEL SALATIN, OWNER, POLYFACE FARMS; AND PATRICK BOYLE, CEO, AMERICAN MEAT INSTITUTE

STATEMENT OF BEV EGGLESTON

Mr. EGGLESTON. Thank you much, Mr. Chairman, and the members of the subcommittee for including representatives of Ecofriendly farming and owners and operators at today's hearing.

I want to make just a few points in my oral statement. No. 1, the American Meat Institute does not represent the views of small farmers, sustainable family owned farms and beef producers. In our view, the Meat Institute is the voice of corporate agribusiness

and practices of giant corporations involved in commercial feed lots and those who operate huge packing facilities, many of which have illegal workers and engage in cruel practices to animals.

The biggest meat packer in America is now a foreign-owned company, and these corporate agribusiness interests are responsible for most of the environmental and health catastrophes that we will discuss today.

No. 2, let me be clear that factory farming is not environmentally friendly or sustainable, but it is a method that the meat—it is method of meat production that is favored by USDA. We believe that the USDA is on the side of corporate agriculture, not family producers who raise cattle—that raise cattle in the way that nature intends anyway, which is exclusively on grasses, with a grass finished diet, being able to graze. Grazing is farm talk for having cattle walk or roam around on cattle—on clean pastures on family owned farms.

It is my belief the special interests and their well-paid corporate lobbyists in Washington have worked hard to ensure that preferred system of allowing giant herds to graze on land owned by taxpayers, in many cases, harming that land, which belongs to us and then shipping those animals across very large distances and having them stand for weeks in tiny spaces inside huge concrete feed lots. The cattle are fed an unnatural diet that may include table scraps, grain, factory waste, even telephone books, in some cases ground up animals.

Point No. 4, feeding cows with an unnatural diet in factory farms is how mad cow disease started in the United States. The lobbyists for the corporate agriculture don't want to tell you that, though. During the mad cow disease crisis, the Federal Government deliberately withheld the inconvenient truth from the American people in my belief. This truth was the fact that mad cow disease was spread exclusively by feed. Mad cow can not be transmitted from one cow to another by physical contact. This meant that if you would slaughter a cow that had never touched any kind of feed other than grass or grass fed, then the meat would be 100 percent safe. But lobbyists from American Cattlemen and the Meat Institute made certain that the Federal Government would never tell the truth to the American people, and the reason is because the lobbying, money and power in Washington, not science, and certainly not truth.

Special interest in corporate farming now want to wipe out the little guy through regulations that will suit factory farms only. This is designed to solve a problem which exists only in factory farms. If you like what big corporations and Harvard Business School have done with the mortgage industry, we will all love what big corporations want to do to small environmentally family friendly and owned and operated farms.

I will quote an editorial by Eric Nelson of the Prairie Star newspaper, "It's a shame that the National Cattlemen Beef Association and the American Meat Institute and the National Meat Association were so successful over the years in convincing those in cattle country and in Washington, DC. that a concentrated packing industry that fixes prices, denies market access and stuffs the market at key times with its own supplies."

All of this seems especially unfortunate as the government not only has allowed monopolistic practices to continue in the packing industry but also appear willing to allow the dominant player to be foreign-owned while leaving U.S. companies at a competitive disadvantage. Surely, our ancestors are rolling in their graves at the short-sighted, cold hearted even unpatriotic nature of these actions.

So here is my simple answer to Congress: If you like polluted public lands, poison water that harms fish and water supplies, horrible smells from enormous waste pools, mad cow disease, illegal workers brought in to keep wages low and gas to make something that isn't fresh seem like it is, lobbyists sitting here behind me in the fancy suits representing the Meat Institute and the American Cattlemen are your guys.

The only way to preserve environment, keep healthy food in the diet for children and promote families thriving in rural America is to have a food system that is run in a sustainable way.

After the mess that the big corporations have created, maybe it is time to listen to the other side, we are that other side. We are the little guys, we are the family farms who protect the environment and we work for ourselves. We just don't have an expensive group of lobbyists in Washington. Bigger isn't better, it is worse for sure, do no harm to the family farm, better yet help American families compete against the giant corporations and foreign-owned conglomerates.

No, we don't want the government—a government run system or a corporate welfare. We want a market system and for the government to stop favoring the special interests. Healthy food a cleaner sustainable environment, a bright future in rural America, if that's your agenda, please listen to our voice, not the voice of corporate agribusiness.

Mr. KUCINICH. I thank the gentleman.

[The prepared statement of Mr. Eggleston follows:]

Testimony
Of
Mr. Bev Eggleston

**Domestic Policy Subcommittee
Oversight and Government Reform Committee**

Thursday, April 17, 2008

2154 Rayburn HOB

2:00 P.M.

***“After the Beef Recall: Exploring Greater Transparency
In the Meat Industry”***

Good Afternoon, Chairman Kucinich, Ranking Member Issa and Members of the Domestic Policy Subcommittee, I appreciate the opportunity to share with you my testimony in this hearing, “After the Recall: Exploring Greater Transparency in the Meat Industry, regarding transparency in the meat industry from the prospective of small plants.

I am the founder of a small USDA meat plant, Ecofriendly Foods. Our mission is to provide a “successful model of humane and ethical standards for grass-based farming...[and] a ‘holistic’ approach to raise, harvest and market products”¹. Transparency is fundamental to the mission and goals of Ecofriendly Foods. Our unique facility was created as a multi-species, certified humane prototype specifically for small family farms, the animals which they raise, and the consumers that depend on this relationship. We have invested in the infrastructure and awareness needed to offer a product that satisfies the emerging conscious consumer looking for humanely treated animals raised in a sustainable, environmentally-friendly way. Those customers hold our business accountable for the whole process that brings meat to their table. However, Ecofriendly Foods is also closely accountable to producers, who have a similar mission and commitment to an environmentally and animal-friendly process. Because the whole process from animal to plate happens locally, we are able to maintain our open door policy that welcomes producers and consumers alike to visit and tour our facility. In addition to their personal commitment to the mission, these patrons thank us with every purchase.

¹ Retrieved 4-14-08 from <http://www.ecofriendly.com/>

Through Ecofriendly Foods' open door policy for producers and consumers, transparency does not entail an additional cost to our small plant. Because we verbally testify to our mission with each sale of our meat, affirming that it is organic, humanely-treated, grass fed, etc., the customer can be confident about the history of the meat they are purchasing. Therefore, they can purchase freely without compromising their values to offer meat to their families. For our customer base, this awareness is critical. This type of conscious consuming has emerged directly from consumer frustration, dissatisfaction, and mistrust. A growing number of consumers will say they don't want to know where their food comes from because they know enough "not to want to know any more". As a result, there is an enormous gap in knowledge in this culture about food production, especially with the newest generation, many of whom erroneously believe that food comes from the supermarket. Not only is this a threat to basic food security, but it affects health and culture as well. If the mainstream process of meat production were not so disturbing and consumers could come to the industry with open eyes, consumption could be honorable, respected, and even an artistic means of cultural and self-expression as it is for many Ecofriendly Foods customers. Food that is not riddled with the "don't ask, don't tell" policy can be nourishing on so many levels, physically, socially, and environmentally.

However, this requires the level of transparency that already exists for small plants like Ecofriendly Foods, one that monitors the whole process from farm to fridge. Transparency is in dire need in mainstream, large plants as evidenced by the recent events leading to the beef recall and many other separate testimonies and events that have undermined the credibility of such facilities. For our small plant, our customers are the emerging conscious consumers scared off from mainstream meat because of the shocking evidence of how animals are treated in such facilities and the health concerns that they see resulting from consumption of such products. As an alternative, our customer are supporting an ecofriendly, small scale facility where they are welcome to come tour all aspects of their food production. Farm accessibility allows customers and producers to view the humane and ethical handling facilities where animals are harvested, which provides accountability needed for safe and prideful meat consumption. If a plant has nothing to hide, then the interested public should be able to enter, view, and learn about food production, which will hopefully renew the historical knowledge that food production ought to be revered. However, reverence, respect, and confident consumption are only possible if the process is transparent.

Unlike large-scale producers, the financial costs associated with surveillance technology are prohibitive for small plants. However, the open door policy of small plants like Ecofriendly Foods is a form of existing transparency that distinguishes small plants from large ones. As a result, deliberate regulations and procedures are needed to ensure transparency of large plants. Small plants like Ecofriendly Foods maintain and expand their customer base because of the humane and sustainable way that they provide meat, ensured through personal witness. However, a federal surveillance program is necessary for large plants that do not have witnesses entering their facilities to ensure the integrity of their process.

If video surveillance were used to monitor such facilities, the subsequent issue would be how to effectively screen live or recorded footage for regulation infractions. One possible alternative would be to commission third-party monitors, perhaps the social activists for animal rights and/or environmental organizations. Because of their mission-driven vigilance, these groups could offer competent monitors. This could serve the dual purpose of providing a hands-on form of activism that such groups desire while fulfilling the need for monitors to screen for and record breaches of the standards set forth by the USDA. With proper training, many members of civil society could aid in this process.

Of course, in order for a surveillance system to be effective, there must be an established protocol for penalizing violations. Perhaps if a predetermined number of violations are noted, a non-compliance report can be issued. After a certain number of non-compliance reports are given to any one plant or company, it would receive fines, potential shut down, and even recall of its products during the time period of the breach. Such fines could potentially help offset taxpayer costs of installing and implanting a federal surveillance program. However, I believe most consumers would support such a program especially if they are aware of the problems and possible implications associated with a meat industry that lacks transparency.

In conclusion, as a small plant operator, I believe that a system of surveillance is essential to a transparent and accountable meat industry. It is obvious that for small plants like mine, that surveillance comes from the open door policy allowing consumers and producers access to our facilities. It also comes from the clear and stated mission of our plant. Because we are dedicated to this mission, we have developed our own system of monitoring

and evaluation via a consortium of small farmers to ensure the control and accountability of our plant. Therefore, we have established an effective and functioning surveillance system. It is imperative to the meat industry, that all plants be required to implement such established means of assuring accountability. In order to safeguard transparency, a federal surveillance program for large producers which allows government and interested consumers to view all aspects of a facility's operations is necessary and warranted. Although industry lobbyists with undoubtedly oppose such transparency, given the evidence of foul play in the meat industry, it would be a positive step for the entire industry if all USDA slaughter/processing plants were subject to measures that ensure transparency.

Sincerely,

Beverly P. Eggleston, IV

Mr. KUCINICH. Mr. Salatin.

STATEMENT OF JOEL SALATIN

Mr. SALATIN. Mr. Chairman and honorable—Mr. Chairman and honorable committee members, thank you for inviting me to testify regarding exploring greater transparency in the meat industry. I've submitted my written comments, which of course go into much more detail than this 5-minute oral statement.

The only potential solution I've heard rumored concerns videotaping in slaughterhouses. I have reason to believe that the reason I am here is because some people thought maybe I would be in favor of such a proposal. At the risk of disappointing and at the risk of straying from a preconceived solution agenda which has not been formally shared with me, I'm going to treat this topic in a wholistic manner, it might be odd in D.C. to look at something holistically.

Clearly, the hearing title assumes that the meat industry is not transparent. An astute assessment with which I wholeheartedly agree. If that is a bad thing, perhaps we need to look at the root cause in broad context rather than in typical linear reductionist disconnected segmented fragmented fashion.

On our farm we raised salad bar beef, pigearator pork, Eggmobile eggs, pastured poultry, forage-based rabbits marketing everything to some 2,000 families, 20 restaurants, some in this city, and 10 retail stores. We process the poultry under the PL 9492 producer grower 20,000-head Federal inspection exemption. These chickens by the way have been tested compared to super-market birds and found to be 25 times cleaner in colony forming bacteria.

Beef and pork go to both custom and inspected facilities for different customers. In fact, we have just teamed with another family to purchase a local Federal inspected facility. Anyone is welcome to see our farm and our processing any time for any reason to go anywhere and see anything.

About 8,000 visitors will enjoy our production and processing areas this year. While some may consider this reckless, our animals actually have a good immune system and we don't worry about disease. As for safety, it is a lot harder to drown in a compost than an industrial manure lagoon.

We do not ship and only deliver within 4 hours in order to ensure that patrons can visit and return home in a day. Industrial farms on the other hand post huge no trespassing signs at their entrances. Our family Polyface has been featured in countless media outlets and the journalists who visit always complain about being denied access to industrial farms and processing. Why is this? Because industrial farms and processors are ugly and owners fear being seen.

The transparency currently lacking in the meat industry is just a symptom of an industrial food paradigm that refuses to ask, does it matter if a pig can express its pigness? Viewing plants and animals as just so much inanimate protoplasmic structure to be manipulated however cleverly the human mind can conceive to manipulate it, disrespects and dishonors the foundation of food life. A cul-

ture with this attitude will inherently view its citizens in the same arrogant, egocentric, manipulative manner and other cultures.

Over the years as industrial food became increasingly aesthetically and aromatically repugnant, villagers ran the butcher, baker and candlestick maker out of town. And when any economic sector sets up shop on the outskirts of humanity, it takes social, economic, environmental and nutritional shortcuts. The only way to create transparency is to re-embed the butcher, baker and candlestick maker in communities by using an aesthetically and aromatically romantic model. If you can't hire your neighbors, you don't have a transparent business. Americans yearn for transparency, but for the most part, the transferred models have been criminalized and demonized by the USDA industrial food fraternity, and I'm sorry they are not here to hear this.

Not until we unleash the transparent food system on our culture will the non transparent sector feel pressure to change. Those of us in the transparent food system are more efficient, more productive more environmentally sound than certainly more animal sensitive than our industrial counterparts from production to processing.

Why don't more of us exist? There is one reason, inappropriate food regulation. The abhorrent practices which stimulated this hearing were performed in a federally inspected facility, under the watchful eye of a government inspector who signed all the appropriate paperwork. Dear committee members, now down to one faithful, you need to understand the industrial food systems and the regulators are in bed together to annihilate the transparent competition. As long as no alternative exists, the non transparent system can continue in obscurity and abuse.

Quickly then, here are possible legislative remedies that would unleash the transparent food system on America. No. 1, establish empirical thresholds for contamination, adulteration or pathogenicity without regard to infrastructure. Infrastructure requirements have never been about safe food, every state encourages its hunter citizens to go out on a 70-degree day, gut shoot a deer that may have Creutzfeldt Jakob's disease, drag it a mile through the squirrel dung, sticks and rocks, display it prominently on the hood of the Blazer to parade around town in stifling afternoon sun, then take it home, cut it up and feed it to their children. That is governmentally accepted as a wonderful thing. Infrastructure requirements are not about food safety, they are about denying market access to prototypical transparent operations.

No. 2, guarantee every American freedom of food choice for internal community of 3 trillion critters who until very recent years, never heard of feeding dead cows to cows, perhaps the largest industrial food debacle in history.

No. 3, another option would be numerical exemptions from over burdensome regulations patterned after other sectors of the economy like day care and elder care.

And finally four, an option would be to enable local prototypes. The problem with selling you on a transparent food is that it really doesn't exist because it has been destroyed by the USDA industrial food police. I can't show you where it exists and prove to you that it would work, except in very isolated cases. But if a village wants

to have a transparent food system, it should be allowed to try without fearing Federal food police.

I do not think we need more regulations against industrial slaughterhouses, even as much as I detest them. The answer is more transparency through expanded market competition by freeing up community based food systems to exist again. And that transparent alternative would attract more customers which would place positive pressure on those who enjoy hiding under government inspection skirts. Thank you for inviting me to show the perspective of the transparent food system with you. May you be blessed with an understanding of freedom with a love for truth and with a respect for life.

[The prepared statement of Mr. Salatin follows:]

TESTIMONY
OF

JOEL SALATIN

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***Domestic Policy Subcommittee
Oversight and Government Reform Committee***

2154 Rayburn HOB
Thursday, April 17, 2008
1:00 p.m.

"After the Beef Recall: Exploring Greater Trans in the Meat Industry"

Good Afternoon, Chairman Kucinich, Ranking Member Issa and members of the Subcommittee, I am honored to be invited to present my message before you today. As a Christian libertarian environmentalist capitalist, my testimony will not fit neatly partisan stereotypes; rather, it will cross broad cultural boundaries. One more caveat: while my comments may appear overbroad, I will not participate in overnarrow, typical myopic analysis of this topic.

First, a brief context for who I am and a short description of our business. I am a third generation heritage-based farmer, meaning that we do not think life is just inanimate protoplasmic structure to be manipulated however the human mind can conceive to manipulate it. We believe it really does matter if salamanders have four operating legs, that the soil actually lives, and that a successful food system ultimately requires proliferating earthworm populations, respected and honored plants and animals, and an increasing nutritional plane for all of us who eat food.

Our family farm, located a mere three hours from here in Virginia's beautiful Shenandoah Valley, produces salad bar beef, pigaeator pork,

pastured poultry, forage-based rabbit, and lumber. We fatten pigs on acorns, run Egghomobiles behind cows, move cows daily to mimic natural mob stocking herbivorous solar conversion lignified carbon sequestration fertilization, and aerate compost with pigs. Everything is multi-speciated, symbiotic, synergistic, relationship-oriented, and pasture based rather than mono-speciated fecal-particulate confinement factory concentration camp designed.

We market everything either at the farm or within four hours—close enough for patron visits to insure accountability through transparency—to some 2,000 families, 20 restaurants, and 10 retail venues. We employ about a dozen people as fulltime, part-time, and apprentices. Approximately 12,000 people from the around the world will visit our farm this year, taking advantage of our open door policy. Anyone can come anytime to see anything anywhere. We do have a tour protocol for free and paid visits.

We process our own poultry in a customer-inspected—far beyond government inspection—facility under the PL90-492 producer-grower exemption. Due to inappropriate government regulations, we take our beef and pork to either a custom or federal inspected nearby processing facility. And although we have not closed on the

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deal yet, we are far down the path of purchasing the federal inspected facility in Harrisonburg. We've slaughtered animals for nearly half a century.

Here are the Polyface transparency guiding principles:

1. Encourage a relationship between food, patron, farmer, and processor. Knowing something about our dinner dance partner creates accountability. The shorter the length between producer and plate, the easier accountability via transparency can occur.
2. Delivery limited to within 4 hours from the farm. No shipping. This is close enough to allow customers to visit the farm and return home in one day. We call this our foodshed, or bioregion. Perhaps you've heard of the 100-mile diet or localvores. These are all descriptions of a local food system that is inherently far more transparent than a food system dependent on the cargo holds of foreign merchant marines.
3. Diversified work stations. We do not believe it is healthy emotionally or culturally for anyone to kill animals every day or use only a narrow spectrum of muscles that encourages carpal tunnel syndrome or repetitive

motion illness. Moving workers around within a processing facility and even to outside of it is both emotionally and physically healthy. Diversified processing facilities with rotated workers reduces physical and emotional stress.

4. Processing should be done on farm or as close to the farm as possible. Rather than sprinkling feathers up and down the interstate and concentrating guts, hides, and blood in one location, healthy and environmentally-appropriate volumes reduce toxicity, pathogenicity, and trafficking in bio-hazardous wastes.

Before proceeding to the critical issue at hand—transparency in the meat industry—let me address, pre-emptively, the industry’s criticism of Polyface because I’ve heard it hundreds of times: “that sounds cute and sweet, but it can’t really feed the world.” Our tightly integrated system produces far more per acre than single-specie industrial systems. And while ours may require more people actually on the land, that simply puts more eyes in prettier offices looking at more natural beauty rather than being cooped up in uninspiring artificial walled-in environments. And we don’t pollute anyone’s groundwater, create dead zones surrounding estuaries, stink up the neighborhood, provide pathogen-friendly vectors via overcrowded housing, encourage diseases, acidify rumens or any host of other maladies perpetrated on our culture to be cost externalized to society by secretive anti-scientific industrial food systems.

Now to the critical issue at hand: transparency in the meat industry. The very question assumes a degree of opaqueness that has occurred, progressively, over time. We cannot deal with the issue at hand without setting it in context. When Upton Sinclair wrote *The Jungle* in 1906 exposing the atrocities in the meat packing industry, two things happened:

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1. Sales from the biggest processors dropped nearly 50 percent in 6 months. Many consumers reverted to local venues.
2. Consumer advocates played into the hand of the big abusive processors like Swift and Co. to create the Food Safety and Inspection Service (FSIS).

Had the FSIS never been created, the private market would have solved the problem by creating independent certifying organizations like Underwriters Laboratories, or the American Automobile Association (triple A). To assume that such a huge fall-off in market share would not have resulted in drastic industry-wide and marketplace measures is extremely unreasonable. But through the FSIS, the industry regained

credibility and consumer acceptance. The industry has been hiding under FSIS skirts ever since.

Every major overhaul of the FSIS, including the latest-- Hazard Analysis And Critical Control Point (HACCP) – assaults community-based, small scale abattoirs prejudicially and encourage the proliferation and oligopolization of the centralized, industrial-scaled operations.

This is all symptomatic of a non-heritage view toward food. You can't separate the problem of slaughter opaqueness from the cultural food production paradigm in which "fatter, faster, bigger, cheaper", without regard to ethics, beauty, or odor, is the ultimate goal. The U.S., as the ultimate expression of Greco-Roman western linear reductionist disconnected systematized fragmented its-all-about-me thinking, industrialized food systems to the point that food production and processing became abhorrent to humans.

Industrialized food and farming became aromatically and aesthetically repugnant, relegated to the offcasts of society—C and D students along with their foreign workers. When the butcher, baker, and candlestick maker stink and look obnoxious and are expelled from the village, no one can see what goes in the front door and comes out the back door any more. And those ostracized economic sectors begin taking social, nutritional, and economic short cuts.

Today our culture does not ask: "Does it matter if the pig can fully express its pigness, or the chicken its chickenness, or the tomato its tomatoness?" We view plants and animals as just so many inanimate piles of protoplasmic structure to be manipulated however the human mind can conceive to manipulate them. And a society that views its life from that perspective will view its citizens from the same manipulative perspective, and other cultures. Wow! Suddenly, dear committee members, we can understand that the seamless connection between our ethical, moral foundation surrounding food systems is the one that defines our culture's persona.

Ultimately, you cannot have a transparent food system without a production and processing model that re-inserts the butcher, baker, and candlestick maker into their

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village. An imbedded food system is the only one that offers transparency, and that imbeddedness can only occur when aromatic and aesthetic delight romances humans to partake. Our dinner partner has been relegated to prostitution status—shrouded in secrecy and evil intent. The industrial pimps are even trying to patent life so it can be sold to the highest bidder.

The abhorrent abuses that birthed this committee hearing occurred in a federal inspected plant under the eyes of government agents who signed off on the proper HACCP paperwork. The fact that this illegality was discovered, exposed, and now the company no longer exists may show well enough that 21st Century information democratization is building its own transparency. And that's a good thing. I believe I was invited to testify today because it was assumed I would be in favor of increased and/or mandatory videoing of abattoir activities. Sorry to disappoint, but I am not in favor of any increased governmental presence in abattoirs. You can't regulate integrity. The Hallmark debacle occurred precisely because of cozy regulator-industry relationships, not in spite of them.

But beyond that, Albert Einstein said "you can't solve a problem with the same thinking that created it." I would suggest, therefore, that it is not a lack of government oversight that created this opaqueness, but rather the cozy government-industrial fraternity that criminalized neighborhood abattoirs and cottage-based food processing. Were the industry faced with serious entrepreneurial community-based food competition, it would be forced to adopt more transparent policies because consumers would flock to neighborhood integrity.

When clean milk farmers can't put rBHF-free labels on their milk and slaughterhouses voluntarily submitting every steer to a mad cow test get sued by the USDA, it's pretty obvious who the USDA works for. And when our great nation now confines nearly twice as many people in jail as there are farmers, this steady centralization and the opaqueness it engenders can only progress.

The only way to encourage transparency is to strike at the very foundation of a disconnected, disembedded food system by offering freedom of food choice. Let me move, then, quickly to suggested legislative remedies that would truly offer greater transparency in the meat industry.

1. Establish empirical thresholds for contamination, adulteration, or pathogenicity without regard to infrastructure requirements. If it's clean, it's clean, and that's all that matters. Random testing, at government expense, would offer regulatory oversight. But if I can gut a steer in the backyard and it's as clean as an Excel animal, why should I have to wrap that steer in a multi-thousand dollar freestanding agricultural-zone prohibited quintuple-permitted facility in order to sell it?

Make no mistake, these regulations are not about food safety. Every state in this great country encourages its citizen-hunters to go out and gut-shoot a deer with potential

Creutzfeld-Jacob disease on a 70 degree November day, drag it a mile through sticks, rocks, and squirrel dung before strapping it trophy-style on the Blazer hood to be paraded around town in the scorching afternoon sun, then strung up in a backyard tree under roosting birds for a week to be eventually cut up and fed to their children and their children's friends. And the government thinks this is a wonderful thing to do.

In fact, we can give away home-processed beef, turkey, chicken, pork, home-made salami, sausage, raw milk, vegetable pot pie—you getting hungry yet? We can take the afore-mentioned deer and give it to the orphans through the Hunters for the Hungry Program—oh well, I guess orphans are expendable with unsafe food. But if any money changes hands for any of this, suddenly it has moved from neighborhood benevolence to hazardous substance. Folks, most of what we know as food regulations are not about safety, they are about denying market access to the local butcher, baker, and candlestick maker by making regulatory overheads burdensome enough to eliminate embryonic competition from ever seeing the light of day. You cannot have a vibrant, community-based food system at the same time you legislate an anti-small, anti-entrepreneurial, overburdensome, capricious food regulatory system.

2. Guarantee every American freedom of food choice to feed their 3 trillion intestinal micro-flora and fauna community anything they want. Our Bill of Rights guarantees freedom to own guns, assemble, and practice religion. But what good are those freedoms if we don't have the freedom to choose healthy foods to feed our bodies so we enjoy the freedom to shoot, pray, and preach? The only reason we don't have such a fundamental human right is because the great framers of our Constitution could not have envisioned a day when an American was denied the right to buy a glass of raw milk, homemade pot pie, or backyard sausage.

In a day when Gay rights, unborn rights, handicapped rights, women's rights, equal rights and civil rights occupy center stage, who will stand up for food rights? When the only food available is what some bureaucrat in collusion with industrial food manipulators deems is appropriate, we have truly entered a black hole of food secrecy. Our regulators think it's just fine to feed our culture on Twinkies and Cocoa-Puffs, to hydrate on Coca-Cola and Mountain Dew, but don't you dare drink raw milk or buy your Aunt Matilda's chicken pot pie. This is insane.

Perhaps a good analogy would work here. We're all familiar with the current cultural marketplace icon, eBay. Does anyone think we shouldn't have it? It has become a wonderfully innovative marketplace flattener. Now just imagine if in order to put an item on eBay, you had to be licensed to operate your computer. And suppose the fire marshal had to inspect your computer-office-mounted fire extinguisher, just in case your

hot item generated too much interest. And OSHA had to certify that your office space was safe so that when you jumped up when the first shocking bid came in, you didn't get a splinter in your hind end from a decrepit chair. And you had to have an electrical license to make sure that your plug-in was up to code. And you had to have liability insurance in case the buyer sued you over the product. And . . . Okay, enough of

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this—can you see the point? How successful would eBay have been? It wouldn't exist, of course, and that is precisely the point. The reason the food system has centralized, amalgamated, and adulterated is precisely because overburdensome regulations have precluded innovative, creative, alternative start-ups from entering the marketplace. Food choice would solve that. Sinclair blew the whistle a century ago, and the marketplace responded. Too bad he was a Socialist.

3. Numerical exemptions from overburdensome regulations patterned after current precedent. Daycare of 3 children or less is exempted from daycare regulations. Eldercare of 3 patients or less is exempted from nursing home regulations. Public Law 90-492, the poultry producer-grower exemption allowing 20,000 birds without inspection is a wonderful proper exemption. Why are 20,000 chickens inherently cleaner than one beef or one hog or one lamb? It's completely nonsensical.

The abuses being suffered today and reported on the news are not in these community-imbedded businesses; they are in the large, government-regulated sector. And that is to be expected, because the inherent openness of a cottage-based business creates its own integrity. You have to look hard to ever find abuses at these small outfits. Not that they are perfect or that abuses don't exist. But the propensity is less. Nothing is perfect this side of eternity, so don't even try to make something perfect. All we can do is design systems that minimize the propensity toward greed, abuse, and secrecy. Empires certainly carry a predisposition to these ills.

4. Enable local prototypes. Allow any community to opt out of federal food regulations within its jurisdictional boundaries. One of the reasons food freedom is so hard to sell right now is because no prototypes exist to dispel the paranoia among consumer advocates, the industry, and the bureaucracy. Remember, some 25 years ago, pioneer homeschooling parents were jailed for truancy violations, and state social workers swooped in to forcibly take these suffering, abused children out of their homes. Educational professionals, quoted on the front pages of newspapers, sounded the alarm that our nation could not afford to build enough jails or hire enough social workers to deal with these educationally-neglected, socially-deprived children.

Mr. KUCINICH. I thank the gentleman, Mr. Boyle.

STATEMENT OF PATRICK BOYLE

Mr. BOYLE. Well, thank you very much, Mr. Chairman. I'm honored to be here today and to share the witness list with three other AMI members, Dr. Temple Grandin who testified albeit briefly on the first panel and Dr. John McGlone and Adam Aronson who will be participating on your third panel.

I have never been sworn in before a congressional panel before, Mr. Chairman, but I never found myself seated next to a gentleman who wrote a book, "Everything I Want to Do is Illegal," so I understand the additional rationale for the process here today.

Mr. KUCINICH. You're safe.

Mr. BOYLE. Thank you very much. I need to talk a little bit about what and who the American Meat Institute is and are, based upon Mr. Eggleston's testimony a few moments ago. We are the largest and we are oldest National trade association representing the meat and poultry company, the meat and poultry industry. We were established in 1906, a pivotal year in our industry's history and one of the reasons we're here today.

That's when Congress passed the Federal Meat Inspection Act. It passed in the wake of public outcry that ensued from the publication of Upton Sinclair's best selling novel, *The Jungle*. The meat packers, shortly after the turn of the century, later in 1906, created the predecessor organization of AMI to represent their interest or advocate, if you will, their interest before the government.

Today, that is largely the role that we continue to play. Mr. Chairman, I feel no reason to apologize for that. We do represent large companies, we are grateful for those memberships. Companies like Tyson and Smithfield and Oscar Mayer do belong and participate in the American Institute, but we represent 230 companies overall, more than 200 of which have fewer than 100 employees. And with an SBA definition of a small business at 500 employees and with the labor intensity of the meat packing and poultry processing industry, businesses in this sector of the agriculture economy with less than 100 employees are truly small businesses. Most—many of them are family owned, many are multi generational businesses, companies like Uncle Charlie's Sausage, Lindy's Processed Meats in Pennsylvania, Parnell Sausage in Kentucky, all bearing the names of original founders going back generations.

We represent companies in multiple niches of the industry, including organic or natural niches such as Laura's Lean Beef, or Coleman's Natural Beef. And our current chairman is the third generation CEO of a business in Chicago, Ed Miniati, a meat cooking business founded by his Lithuanian grandfather in the early part of the 1900's about exactly the same time that Upton Sinclair was writing about a Lithuanian immigrant in *The Jungle*.

Much attention has been focused on the livestock and beef industry since late January when an undercover video depicting inhumane practices in a meat plant was released by HSUS. Our members universally agree these images were shocking, unacceptable, illegal and atypical. Proper and humane handling of livestock is not just a priority for AMI member companies, it is part of our culture.

The meat industry knows that humane animal handling is a regulatory requirement, an economic necessity and a moral and ethical imperative.

In partnership with Dr. Grandin, we have long sought not only to meet regulatory requirements but to exceed them. In 1991, at AMI's request she authored the first ever industry-specific animal welfare guidelines. In 1997, we embraced her idea that animal welfare could be measured objectively and asked her to write an audit program for us again another first for animal agriculture.

Today self audits are part of routine plan operations and third party audits are widely used by numerous restaurants and grocery retail chains as a condition of doing business.

In addition to our best practices and third party audits, it is important to recognize that the meat industry is regulated more intensely than I think any other industry in the United States. We process live animals into wholesome meat products and do it over the continuous oversight of Federal inspectors who are in our plants during every minute of operation. And not one inspector per plant, or 1½ per—inspector per slaughtering plant. The large high volume plants have 12, 15, 18, 20 Federal inspectors. The number of inspectors is determined by the volume of animals that are processed in each of those plants and those determinations are established under Federal regulations promulgated by FSIS.

While humane animal handling is primarily the responsibility of the company and its employees these FSIS inspectors are empowered to take action any time they identify a deficiency or lack of compliance. And contrary to some testimony from a previous witness, a reviews of FSIS records will show that they actively use this authority.

I do believe that the undercover video from a Chino, CA plant has left a lasting imprint on the minds of those who viewed it. In the interest of showing people what is truly typical today, we are making available a new video with footage from plants at our industry with explanatory interviews from Dr. Grandin and members of AMI's Animal Welfare Committee. The video is available on YouTube and may be accessed from the home page or dedicated Web site, animalhandling.org.

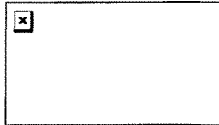
Mr. Chairman, while not in my prepared testimony submitted for the record, given the nature of the exchange between the committee on the first panel, I would like to talk briefly about food safety. Particularly given the comments that were raised by Congresswoman Watson and Congressman Cummings. I think the concerns and impressions that they may have left with.

Indeed, the testimony from Mr. Painter representing the inspector's union would be a cause of concern, if it were true, but in fact, I do not find it credible. And I won't refer to anecdotes or personal history, I will just refer to the facts. Facts can be stubborn things, and the facts show that the meat and poultry supply is safe and increasingly getting safer. For example, FSIS conducts food safety samples and tests for microbiological levels on meat and poultry products. They look for E. Coli in ground beef, they look for listeria monocytogene on ready-to-eat meat and poultry products, they look for Salmonella in a wide array of beef and pork and poultry.

Since the year 2000, the incidents reported by the FSIS sampling program of E. Coli in ground beef has dropped 75 percent, the incidents of listeria monocytogene in ready-to-eat produces has dropped 60 percent. More importantly however the food borne illnesses commonly associated with those pathogenic bacteria as evidenced by the data from the CDC, E. Coli related illnesses have dropped 40 percent since the year 2000. Listeria related illnesses are down 11 percent since 2000, 45 percent since 1996.

It is the companies who are principally responsible for ensuring the safety of the product, as Mr. Issa mentioned during his comments, during the first panel's presentation, FSIS plays an important secondary role. But it is a secondary role, and the facts indicate that together plants principally with FSIS's oversight are producing and providing the American consumer with safer products. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Boyle follows:]



**Testimony
Of
President J. Patrick Boyle
American Meat Institute**

“After the Beef Recall: Exploring Greater Transparency in the Meat Industry”

**Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, April 17, 2008
2154 Rayburn HOB
2:00 P.M.**

Good afternoon and thank you for the opportunity to testify before this committee on the subject of transparency in the U.S. meat industry. And I’m honored to testify along with two of the American Meat Institute’s members: Dr. Temple Grandin from Colorado State University and the American Humane Association, represented by Dr. John McGlone.

Clearly, our industry has received much focus since late January, when an under cover video depicting inhumane practices in a meat plant was released by an animal rights group. We were shocked and appalled by what we saw. Our industry has an extremely proactive record in this area. Since 1991, we have had a very active partnership with Dr. Grandin. She wrote the first industry-specific animal welfare guidelines at our request in 1991. In 1997, we embraced her idea that animal welfare could be measured objectively and asked her to write an audit program for us. Again, it was another first for animal agriculture. Our members began self-audit programs and third party audits soon followed. The industry we know is one that recognizes both the ethical responsibility and the benefits of humane handling.

It is important to step back and recognize that the meat industry is an industry unlike any other in the United States. We process live animals into wholesome meat products and we do it under the continuous oversight of federal inspectors who are in our plants during every minute of operation. No other industry besides the meat, poultry and egg industries operate in this fashion. These inspectors are empowered to take action any time they identify a deficiency or the slightest lack of compliance. A review of federal records will show that they actively use their authority.

For more than 100 years, we’ve operated in this manner. It’s a level of scrutiny that other industries can’t imagine. And if you step back to consider that other industries like healthcare facilities, restaurants and child care centers don’t have this kind of oversight and are inspected only annually, it is truly remarkable that our federal government places as much emphasis on meat inspection as it does.

I was asked to speak to this committee about the issue of transparency in the meat industry. I am eager to explore this topic in its broadest sense.

In some respects our industry is among the most transparent in the United States. While our walls are not transparent, federal inspectors function as the eyes and ears of the public. Records generated by these inspectors are public documents and accessible to media, policymakers and consumers.

Certainly, our plants do host visitors under controlled circumstances. Customers tour our plants as do foreign delegations, lawmakers and other policy makers and a host of auditors who monitor our performance as a condition of business with many customers. But when we permit access, our first concerns are bio-security, food safety, worker safety and animal welfare.

Controlling access is essential to preventing the introduction of contagious animal diseases like avian influenza and foot-and-mouth disease. Controlling access also prevents the introduction of bacteria, pathogens, and even physical hazards into the products we produce.

Visitors who do enter our plants are required to wear a host of safety gear to protect them. They also wear clothing to protect our products, like hairnets, beard covers, boots and gloves. Jewelry must be removed and they must indicate whether they've been to foreign countries or to other plants or livestock operations within a defined time period.

We don't place restrictions on visitors to be difficult. We do it to protect livestock, our employees, the meat supply and in turn the American public.

Our experience and knowledge about animal behavior also tell us that visitors can actually cause animal welfare problems. Our goal is to ensure that livestock remain calm and unstressed. Unfamiliar visitors moving in live animal areas can actually stress livestock or make them unwilling to move forward. This is another good reason to maintain a secure, controlled and quiet environment.

We've heard many suggestions over the last several months about the role that cameras or live video feeds may play.

Many of our members do use cameras in their plants to monitor internal practices. Some members use a system where video feeds are transmitted by live remote to an auditing company. These cameras can serve as a valuable business tool. Because all plants are not alike, however, cameras have varying degrees of usefulness. A plant that processes only a handful of cattle a day – and there are plants like this – might view camera differently than a plant that processes 5,000 head a day.

In our view, it is essential that information about the role that cameras may play be made available to members. That is why the topic has been on the agenda of our annual convention and exposition and our annual Animal Welfare Conference. But cameras are not a panacea and their usefulness must be determined on a plant by plant basis to be implemented as a business tool.

Some have suggested that live video feeds from inside plants should be streamed to the internet. I cannot help but see the irony in that suggestion. Why should the most regulated and inspected industry whose legions of federal inspectors act as a proxy for the American public be compelled to broadcast its business to the world? For those who believe this idea has merit, I say

why stop there? Why not hospitals, nursing homes, child care centers, restaurant kitchens, auto plants and operating rooms?

We also must remember that today, only ten percent of Americans live in rural areas and only two percent of Americans live on farms. A member of the public with no knowledge of livestock or meat production would have no frame of reference in viewing and evaluating what we do in our plants. They would be as qualified to make a judgment as I would be if I were asked to critique an open heart surgery.

Indeed, I'm not worried about the public seeing something "wrong" in our plants. I am worried about an untrained eye seeing something right and misunderstand it because of their lack of exposure to animal agriculture

I will concede that the undercover video from a Chino, California plant has left a lasting imprint in the minds of those who viewed it. In the interest of showing people what is truly typical, today we are making available a new video with footage from plants in our industry, interviews with Dr. Grandin and interviews with the leaders of the AMI Animal Welfare Committee. The video is available on You Tube and may be accessed from the home page of our dedicated web site www.animalhandling.org. We plan to provide more videos like this one to give America a more accurate frame of reference.

We hope that our new section on YouTube will reassure the media, policy makers and consumers and help us tell our story in a way that is meaningful. We do have an excellent story to tell.

I appreciate the opportunity to testify before this committee to share the first chapter in what will be an ongoing dialogue with the millions of Americans who place their faith in us and our products.

Mr. KUCINICH. I thank you very much, Mr. Boyle, for your testimony. Just let me ask you a question. The Westland Hallmark, were they a member of the AMI?

Mr. BOYLE. They were not, Mr. Chairman.

Mr. KUCINICH. I have some questions here that I'm going direct to each of the members of this panel, and I'd like each of you to respond briefly. There exists some large plants that have multiple shifts. In some instances, they operate 24/7, Westland Hallmark was one such plant that operated into the night. According to their 2007 audit, when livestock was delivered at night, the employees would check for downer cows, I know, after-hour truck deliveries.

How do you recommend that such 24/7 operations be monitored, is it possible to monitor such operations? And in addition to inspectors on sight, what other tools can adequately monitor these operations? I would like to start with Mr. Boyle.

Mr. BOYLE. Thank you, Mr. Chairman. To the extent a plant is literally operating 24/7, it would be a highly mechanized processing plant, which requires few personnel and relies heavily on systems and equipment and technology. Slaughtering plants do not operate 24/7. And in today's economic environment for beef, many of them are operating less than 40 hours a week. But to the extent that there are three shifts in a plant that slaughters and fabricates meat, only two shifts would involve slaughtering and fabrication. The third shift is always a sanitation shift, a full 8 hours to clean the plant and prepare it for processing animals and food the next day.

Mr. KUCINICH. So you're saying that it shouldn't be any difficulty in monitoring such operations?

Mr. BOYLE. It would be true if a plant is beginning operation at, let's say, 6 a.m. to have livestock trucks arriving prior to that, unloading their animals into the pens of the plant. An inspector would not normally be there before the plant opens up, but under Federal regulations, the plant cannot begin operating until the inspector or inspectors depending on how many are assigned to the plant are onsite.

Mr. KUCINICH. Obviously you are very fluent on these issues. The question I would ask is does AMI as a matter of course recommend to these highly mechanized operations ways in which they can be in compliance with the law and also—and provide for safe processing in these high volumes? That must be part of the work of your industry, is it not?

Mr. BOYLE. Absolutely, Mr. Chairman, we have animal handling guidelines, audit tools for animal handling procedures, in fact, our audit tool is used internationally.

Mr. KUCINICH. Do you keep updating these ideas?

Mr. BOYLE. We developed the first guidelines in 1991, we updated them, I believe, in 1996 or 1997, we added the audit tool in 1997. We updated them again a year or two ago.

Mr. KUCINICH. So it is a culture that evolves, you're saying, is that your—

Mr. BOYLE. It's the process of what I would characterize as continuous improvement.

Mr. KUCINICH. OK.

Mr. BOYLE. Within our membership, we view certain issues as non competitive, food safety, environmental stewardship, animal welfare.

Mr. KUCINICH. I want to go to Mr. Salatin and ask him to answer this question. I'm going to ask the question again. You have these large plants of multiple shifts, some operates 24/7, Westland Hallmark was one of those plants. In the 2007 audit, the livestock was delivered at night and when the livestock was delivered at night employees, would check for downer cows on those after-hour truck deliveries. How would you recommend these continuous operations be monitored? Is it possible to monitor them effectively and what other tools could help monitor them, Mr. Salatin? .

Mr. SALATIN. That's a great question and please don't be offended at my response because the question assumed that these plants should exist. I'm going have the audacity here to honor myself in our position that these plants should not exist. The only reason they exist is because the butcher, the baker and the candlestick maker, the neighborhood community friendly plants have been run out of town by egregious, inappropriate regulations that make it impossible for a small scale plant to stay in business. We heard the prejudice and the worship of economies of scale in the previous panel; this is the answer for everything is this economies of scale. So there's clearly with the poll between the money and the number of inspectors and the number of eyes and the number of plants to get around.

Dr. Raymond was very clear to say that the basic, main closures in facilities were where, in rural America, small neighborhoods. There's a reason for that, because there is a prejudice within the FSIS against going around and visiting all these little nondescript community's facilities. So what happens is in our experience, is that they pick, pick, pick, pick, pick, and because there is not enough overhead, 4,000 head a day to spread the pick, pick, pick costs over, the small plant goes out of business.

Mr. KUCINICH. So your position then is our inherent defects in the design of large processing organizations that work intensively around the clock.

Mr. SALATIN. Not just design in the facilities, there is an inherent defect in the government oversight that discriminates and prejudices against competitive facilities that are open to the community that have an open door policy and allow people to come in and aren't trying to shove cows that have already been debilitated in the milking stream to lose their calcium in their skeleton and can't stand, and now we ask them to stand 10 hours on a tractor-trailer and get up and walk, they have given it all.

Mr. KUCINICH. So the long distances you're saying debilitate the animal to where to where food safety issues come into play?

Mr. SALATIN. Yes, and that comes from centralized economies of scale facility that aren't located near where the cows are.

Mr. KUCINICH. Thank you. Mr. Eggleston, can you respond to the question?

Mr. EGGLESTON. Thank you, Mr. Chairman. I agree that 24 facilities are really based on economies of scale. In my written testimony, I speak about the benefits of the consumer perception when they are invited as opposed to excluded in the little sun shine sani-

tizes and goes a long way. So I won't belabor the situation, but I do—I do believe that if they were going to operate 24 hours, if after Joel Salatin's assumption that they are not a functional tool to represent transparency, we need a different tool.

I believe that small is the answer and inviting is the answer because perception is reality in the minds of the consumer. So if the industry feels like they have nothing to hide and the industry feels like it is totally accountable, then what's the problem in showing. So i.e., you're going to want to consumer advocates or some type of technological surveillance on the off hours to make sure those animals are being offloaded. From the farm gate to the antemortem pen is where this surveillance is an issue. Just like Mr. Painter tried to refer to, nobody in their right mind thinks video surveillance is going to detect adulterated product or condensation above a product or cross contamination of any type.

The surveillance issue is completely, in my opinion, about the handling of the animals from the trailers gate to the antemortem pen or the knock box even. So my experience with owning a facility, I can beg and plead and inspire laborers to act the way I want them to act and my own ethics instruct me to act. They do until some time they don't, you know. And so I'm not saying I'm going promote technology of video surveillance, I'd rather have a relationship with my employee that negotiates that, but at the same time, the industry doesn't have relationships with their employees, they don't know their employees, they don't care about their employees. That employee is as important to me as that cow, that cow is as important to me as anything else I do. So as—as a—coming from a position of a rural person working in rural agriculture, having come from suburban environment, coming from a vegetarian background, coming from a vegetarian in 10 years now owning a meat plant, I think we come with unique perspective and desires and practices and try and bring back the sacred to this gift. I believe that our customers know that.

So if the industry wanted to reconstruct the perception that is nothing there to be overlooked and everybody's welcome to come look, then I think video cameras from the trailer to the antemortem pen would serve.

Mr. KUCINICH. I want to go back to Mr. Boyle. Mr. Salatin and Mr. Eggleston have offered sharply divergent views from the one that you've presented. I think in fairness we should give you a chance to respond to that. Is there anything you'd like to say in response?

Mr. BOYLE. Well, the comment that the companies that we represent at the American Meat Institute do not care about the workers, for example, is so contrary to my experience as a CEO of that organization for the last 19 years. In fact, coincidentally yesterday, at this time, I was in New Orleans presenting the annual worker safety awards to about 150 facilities that participate in that joint venture between the American Meat Institute and the National Safety Council. We did have a workplace safety problem 20 years ago. We may have been the most dangerous workplace in America as we were still referred to frequently today.

Again, I will go to the facts, workplace safety is a non competitive issue within the American Meat Institute. We have developed

the first ergonomic guidelines of any industry in 1990. They were the first approved and endorsed by the Department of Labor and the UFCW. We have been having an annual safety award conference for about 10 years, and if you look at the data from the Bureau of Labor Statistics today, we are not the most dangerous industry, we are not in the top 10, we're not even in the top 50, there are 63 sectors of our industrial economy that have more dangerous workplace sites than the meat packing industry.

Mr. KUCINICH. Let me ask you something, in listening as you have closely to the testimony, just out of curiosity, do you feel you could learn from anything that's been said in terms of, in a sense, they are holding up a mirror to the meat industry. And is there anything you can learn from what they said at all or do you think there—is there an ideological divide here, or do you think that there's something that as your culture evolves, that is worth thinking about?

Mr. BOYLE. I was not familiar with these two gentlemen until today. But this morning, I went on their Web sites. They have very unique, profitable, successful, I assume, sustainable, because of their unique practices, businesses, they are a unique, viable, credible niche in our industry. We represent all segments of the industry as I mentioned earlier in my comments, including those that produce——

Mr. KUCINICH. I want to thank the gentleman. I want to go on to the next question if I may and I thank you.

Mr. Steve Mendell the owner of Westland Hallmark, wrote a letter to the subcommittee in which he explains that in 2007 his plant was subjected to 29 audits, that all reported positive results.

[The information referred to follows:]

**RESPONSE FROM MR. STEVEN MENDELL, OWNER, WESTLAND/HALLMARK
MEAT PACKING CO. TO LETTER FROM DOMESTIC POLICY
SUBCOMMITTEE, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

1)

What are the challenges to full compliance with federal and state law on food safety and humane animal handling faced by owners of large scale processing and slaughter plants? Please include in your comments how, if at all, factors such as daily volume of animal arrivals, rate of slaughter, time of day, and condition of animals at the time of arrival affect the ability of a facility to be in full compliance at all times.

The challenges that may hinder a company from fulfilling full compliance are mostly present in harvesting facilities.

In order of importance, the challenges a harvesting plant would encounter that would affect the ability of a facility to be in full compliance would be employee participation in company policy and procedures (performing specific job tasks), origin of the livestock and cattle transportation.

First, the challenge is making sure all employees are performing their job duties, tasks, and moral obligations on a daily basis; employee participation is key. It is crucial that all employees comply with all regulations no matter the size of the plant. Westland Meat Company and Hallmark Meat Packing fully train all employees repetitively throughout his/her career at either company. It is the responsibility of all employees to carry out their job tasks within the legal limits and parameters in accordance with the policies and procedures set forth by the USDA/FSIS and the company itself.

Secondly, the origin of livestock is of great importance in making sure all harvesting plants are in full compliance. Currently, harvesting facilities bear all the responsibility in the humane treatment of animals; Dairies and stockyards need to have USDA/FDA procedures in place. Cull cows should not be allowed to leave either facility without some sort of government inspection and/or certification. Humane handling procedures should be implemented at all levels from cow conception until harvesting.

Finally, cattle transportation needs to be taken into consideration to ensure full compliance. Cull cows need to arrive at a harvesting facility in good condition. All cows need to be treated humanly throughout their life span, the transportation of cattle seems to be a grey area when it comes to humane handling. Again, as an owner I have to assume that the drivers have been properly trained in live animal hauling methods and safety. I also, have to assume that these animals are treated humanly from point A (dairy and/or stockyard) to point B (harvesting facility).

I feel that cattle drivers and live animal transportation companies should follow strict human handling guidelines and should be found accountable when a cull cow has passed inspection at the Dairy and/or stockyard and suddenly is no longer ambulatory during the unloading process at the harvesting facility. A special license for animal hauling and human handling training should be required.

2)

In your opinion, is greater transparency into actual practices at large scale facilities necessary to ensure compliance with federal law regarding food safety and human handling of animals? What forms of increased transparency, i.e., video surveillance, spot check audits by FSIS inspectors, open door policy for retailers and consumers are the most efficient in terms of cost and benefit to achieve that goal? Is increased transparency sufficient to ensure compliance?

Yes; video surveillance would be the most efficient form of increased transparency and it would be the most economically practical in order to guarantee all harvesting plants are treating the livestock in a humane manner. Video camera's should primarily be used in the livestock area; especially the knocking box.

On the USDA/FSIS level, I would suggest a USDA/FSIS presence in the livestock pens, single file chute and knocking box at all times, Video Surveillance is sufficient to achieve the goal of "Increased Transparency," but all company and government staff needs to work together in unison.

Food safety and humane handling is multifaceted, a company needs to have strong company policies, procedures and training programs in place: USDA/FSIS regulations, audits and video surveillance will only help enhance the total food safety package and regulatory humane handling compliance.

3) **During a recent phone call you had with my Subcommittee staff, you mentioned that video surveillance is the only way to ensure "100 percent surveillance." Please elaborate what you mean by that.**

"100 percent surveillance," in the livestock harvesting area seems to be the only reasonable solution. It would require that all harvesting personnel abide by strict rules and regulations. Exemplary training programs are already in place, video surveillance would only help the management staff keep track of all activity in the livestock/knocking box area and if the suggestion given in question #1 regarding government officials in the livestock area at all times is taken into consideration, it would also, help the USDA/FSIS with accountability.

4)

I understand that you have encouraged other plant owners in the meat industry to install video monitoring in their processing and slaughter plants. Why did you encourage them to do so? Please evaluate the reasons why some owners would resist installing video monitoring.

I did not suggest any processing plants install video surveillance, only harvesting facilities. Although, video surveillance may be the next required step for processing facilities. The only other reasonable solution for all harvesting plants to follow proper procedures themselves would be video surveillance and USDA/FSIS presence in the livestock/knocking box area. All employees who work in the pens are given the training, the knowledge and the tools necessary to perform their jobs in a humane, productive, and legal manner. I mentioned earlier one of the greatest challenges harvesting plants encounter was ensuring personnel follow proper procedures and practices; video surveillance would virtually eliminate this challenge.

The only reason I would assume some owners would resist installing video monitoring would be the cost, legal liability and/or accountability.

5)

You have stated that you were unaware of the practices filmed at your plant by undercover investigators from the Humane Society. Yet, I understand that your plant has been regularly audited by independent third parties, by your own management as well as by the USDA which conducted audits of your plant in 2005 and 2007. In your opinion, what explains the failure of those regulators and auditors to discover what the Humane Society documented?

First, to clarify some facts, In 2007 Westland Meat Company/Hallmark Meat Packing was subject to 29 audits:

1 USDA/FSIS audit conducted by Dr. Knox
 12 ARC Branch Audits
 12 Internal Audits
 4 Independent third party audits (Siliker Laboratories, Windsor Foods, S&S/Jack in the Box, and HACCP Consulting Group).

The events depicted on the subject video were isolated incidents by company personnel who were properly trained in all humane handling procedures; all training was documented and is verifiable. We can only speculate why an employee(s) acted in an inhumane manner; these employees acted against all company procedures, they were in complete disregard to all documented training, audits, and USDA/FSIS regulations.

Mr. KUCINICH. Now, in your opinion, how could all these audits fail to catch what an undercover investigation showed us? And in your opinion, are these problems more characteristic to plants depending on their size, for example, a smaller plant will exhibit more disparate findings between an audit and an undercover investigation. Mr. Eggleston, let's start with you.

Mr. EGGLESTON. I can only come from my own experience in working with my own crew. And in response to that question, I think that when—even if the laborer really believes what we are trying to tell them and teach them, if they have come from the industry, they fight it.

Mr. KUCINICH. Because?

Mr. EGGLESTON. Because they don't do it this way. Because it takes too much time. Because for a variety of reasons.

I have basically found in my business that I have to bring people outside the industry, similar to my own perspective of farming. I made a decent farmer. I make a decent farmer because I don't come with all the preconceived notions that my grandfather or father told me we can or can't do on the farm. So I think suburbanites make great farmers, and I think average consumers who want to be advocates can make great laborers. That is not very frequent.

But in order to bring our standards to real practical aspects day in and day out, it is a never-ending—I have been in business only 5 years. I have been through 140 laborers. And that is because we try hard to find the right people to do the right thing and to understand why we are asking them to do that.

I still believe it all comes down to relationship, intention, and in my—like I say, in my limited experience, even the people who I spend a lot of time with and make sure they do it the way I want to do it, because before they were there I did it myself. It is a small plant. We forged all these practices, my HACCP plan, all our HACCP plans, everything we did with an individual, myself, forging it forward, forcing it forward.

And the fact of the matter is that your staff has to believe and buy into why you feel this way. I don't think that people—I don't think laborers become inspired by regulation. I don't think they get inspired by oversight. I think they get inspired to do the right thing and get paid well and be respected. That is how we build our business.

Mr. KUCINICH. Thank you, Mr. Eggleston.

Mr. Salatin, do you have the question? You want me to repeat it?

Mr. SALATIN. The question is fine.

Mr. KUCINICH. Please proceed with your response. And after you get through responding I am going to take it to Mr. Boyle, and then we are going to go to Mr. Cummings for his questions. So, Mr. Salatin.

Mr. SALATIN. Thank you.

I have two responses. No. 1 is you can't legislate integrity. Nobody can legislate integrity either into the FSIS or to the industry. At the end of the day, integrity is a personal thing.

And I couldn't agree with Mr. Cummings more in his observations in the previous thing about Stephen Covey's book about when trust is lost. You can't legislate trust. You can't legislate integrity.

I honestly don't know who to believe, whether it was Dr. Raymond or Mr. Painter. But you can't legislate integrity.

But the second response I would say—I would like to tell you a very, very quick 30-second story. I had a visitor 1 day. He was the Washington counsel for the largest hamburger fast food corporation in America. And they were interested in perhaps putting in a line of grass-fed burgers, grass-fed beef as opposed to, you know, concentrated animal feeding operations, cows that eat dead cows and chickens and chicken manure. And so he came as a front man to find out, you know, if I would be cordial and accept him and all this before the executives came; and we were talking about these very issues.

And he said, you have to understand there is no overt discriminatory or prejudicial treatment in, you know, against small plants or in favor of large plants. It appears that way only because—now he is a hired counsel by this corporation—he said, when we have a problem in one of our plants with, say, an aggressive inspector or some jot or tittle out of line, he said they pick up the phone and call me, I call FSIS and say remove that inspector, get rid of it, you know, let's get on with moving product.

He said, when your little plant has that happen, you don't have a legal counsel in D.C. on retainer to, you know, to make that call. So you have to go back to the back room and fix it and whatever needs to be done.

And so, to answer the question how could this happen and is it more characteristic in a large plant, I would simply suggest that as soon as the government is involved with something it becomes a political animal. The corporations are political. They wine and dine the, you know, the big wheels. And so there is absolutely more propensity to move political pressure.

Mr. KUCINICH. Let me ask you a followup with your observation.

In 2007, FSIS issued 12 suspensions. All 12 were to those plants who were categorized as small. Now, in your opinion, what do think you this means? Large plants are performing better or small plants are performing poorly or the size of the plant has something to do with the ability of an inspector to adequately oversee plant operations?

Mr. SALATIN. I will answer that with another story, if I may.

Mr. KUCINICH. Could you first answer my question?

Mr. SALATIN. Yes, the answer is yes, on the scale, yes.

Mr. KUCINICH. On the scale.

Mr. SALATIN. Yes. Because we have chickens processed at a very small federally inspected facility in North Carolina. Several years ago, the inspector said our chickens, even the worst one, was better than anything he saw at one of the big integrator plants, but the reason that some of ours were condemned was because he actually had 30 seconds to look at them. When they are in the large plant, he doesn't have enough time to look at them.

Mr. KUCINICH. Mr. Eggleston, scale?

Mr. EGGLESTON. Scale is a problem.

Mr. KUCINICH. Let's go to Mr. Boyle for a response to the question. And do you need me to repeat the question or do you have it down?

Mr. BOYLE. No, sir. I think the dichotomy, if you will, the gross dichotomy between the audits that the plant had in Chino, CA FSIS records in that plant and the gross practices captured on the video are just inexplicable. I mean, I don't have any rational explanation for the extreme disparity. It is clear that there were multiple failures that occurred in that plant, failures on the part of the farmer who wasn't culling these animals at the appropriate time, failure on the part of plant management supervision and the employee practices, and failure on the part of FSIS, who appeared to be MIA during that period of time when the taping occurred. That is why the Office of Inspector General's investigation is going to be of interest to all of us.

Mr. KUCINICH. Does the AMI send out bulletins to your members when you have an incident that is reported in the industry and warns them and also raises the kind of issues that you are raising in front of this committee?

Mr. BOYLE. We provide routine updates on regulations, directives, newsworthy developments, best practices.

Mr. KUCINICH. After Westland/Hallmark, did you send any note around the industry saying heads up?

Mr. BOYLE. It wasn't so much a heads-up note as much as it was a wake-up call note. I spent a lot of time in the last 2 months working with my counterparts who are presidents of livestock-producing organizations. For our members, we have guidelines and audits. We think we need guidelines at all stages, from the farm through transport to our pens. We think we need audits at all stages. We think there need be to third-party audits, and we are working hard our counterparts to get that done throughout the system.

Mr. KUCINICH. OK. I appreciate that, Mr. Boyle.

Let's go to Mr. Cummings. Mr. Cummings, thank you for your patience.

Mr. CUMMINGS. I just have two questions, just two.

You know, Mr. Mendel said—I mean, he responded to a letter I guess from the committee. He says, the only reason I would assume some owners would resist installing video monitoring would be the costs and accountability. If we assume for a second that small plants would be exempt from this consideration since they have inherent qualities that make them transparent, then how would you respond to this? And do you agree with Mr. Mendel that issues of costs and accountability would make some owners resistant to installing video surveillance or other means of enabling greater transparency?

Mr. BOYLE. I think it would be more cost than accountability, but I will defer to the economics of the issue to a witness on the next panel, Mr. Aronson, who runs a company that installs cameras in manufacturing facilities.

Many of our AMI-member companies have cameras in their facilities. They have concluded from a management perspective it gives them a greater level of supervisory oversight. It also gives them a record when they find a dispute between themselves and the FSIS inspectors. But there are other ways to assure that best practices are being followed: intensive supervision and extensive employee training, certification of those employees, aggressive implants, self-audits, targeted incentives, awards recognitions. But a

video camera is a tool that should be available; and many companies, as I say, have used them. And in the wake of Hallmark/Westland many more of them are looking at them.

But Mr. Aronson can give you more detailed information on that, Congressman.

Mr. CUMMINGS. OK. Well, one thing is self-audit is nice as long as people are being honest. Am I right? And it seems to me that—you know, Mr. Issa asked a question a little bit earlier of the earlier panel. He said, would there be any incentive for people to shortcut and do the wrong thing? And I assume that, you know, people take these shortcuts, usually it has something to do with profit. People who take shortcuts, they don't assume they are going to get caught. As a matter of fact, if they assume they were going to get caught, they probably wouldn't do it.

So the problem then takes place where if you have—I mean, you mentioned that is one of the ways you do it, the audit. But, you know, we got to make sure that there is a level of integrity. And I guess Ronald Reagan used to say, you know, you have to verify. You can believe it, but you got to verify it, too.

And I think in the process, in listening to the earlier testimony, it seemed like there was some questions with this particular farm, where there was a question of whether the truth was coming out of the farm and then whether there were folks to appropriately look at that information to verify it.

So I think that, you know, there are some problems that seem to be systemic. It seems as if, you know, when you get to a thing of dishonesty, it can just have just a phenomenal effect. And I think that is part of the problem in everything that I have heard, particularly with the earlier panel. And I think this thing of trust is kind of getting out of hand, and I think that we all need to work together to make sure that we create as much transparency as possible.

But you said that it is more expense, as opposed to accountability. Well, what about accountability? I mean, do you see that as being significant at all?

Mr. BOYLE. I think accountability is essential. And I agree with Mr. Salatin, and your remarks as well, you cannot legislate or regulate intensity.

Mr. CUMMINGS. Right.

Mr. BOYLE. You can't just go out and hire it off the street and put it in your plants and make sure plants are going to operate efficiently and correctly and safely.

Accountability is key. In order for a business to be successful, they have to find a way to ensure from their workers accountability to their standards. A video camera might be one way of adding to that level of accountability, but it is not the only tool. There are other ways that businesses achieve that level of accountability amongst their employees.

Mr. Eggleston talked about finding the right person who shares his company's vision, the passion for his objectives. That instills the kind of values that translate to accountability.

I do have to comment, however, on some of the observations of Mr. Painter from the prior panel. I mean, I have heard these allegations that our plants spend their time—our plant employees

spend their time looking out for FSIS inspectors. In a big plant, which one of the 20 inspectors is going to round the corner any moment? And let's get on a walkie-talkie and warn the folks in the other part of the plant, who I guess are also looking out for inspectors.

And who is performing the work? Who is maintaining the process controls? Who is ensuring that the best practices are being followed? No one has the time in our business or, I would submit, businesses in general to be on the lookout for inspectors or supervisors instead of focusing upon their job responsibilities. I don't know of any business school in the United States that teaches violating or circumventing Federal regulations as a long-term business strategy.

Mr. KUCINICH. If I may, I remember in my reading—if I may, to my friend—that maybe it was a generation ago, but it is my understanding that a certain Ivy League school taught a course in strategic misrepresentation—to the gentleman, Mr. Cummings.

Mr. BOYLE. I would be interested in learning more about it.

Mr. KUCINICH. We will talk.

Mr. BOYLE. I will look forward to that, Mr. Chairman. But I am submitting it is not a long-term strategy for business success.

Mr. CUMMINGS. It is a poor strategy. And, I mean, if you really think about it—I go back to what I said a little bit earlier. It is not a question of whether it is taught or whatever. It is that people find—some people just want to find shortcuts, and they assume they are not going to get caught, period.

I think—I am just wondering, but going back to Mr. Painter, did it concern you that he said that every time somebody comes forward to do some whistle-blowing they are basically punished? Did that concern you?

Mr. BOYLE. If true, that would concern me. I don't have any evidence that it is true; and I believe that Dr. Raymond, who runs the agency today, stated from his perspective it is not true either.

Mr. CUMMINGS. Well, you know, I will just end with this. I think that one of the interesting things about whistle-blowers is that if they are operating in a culture that has that kind of—that does that, first of all, it takes a lot of guts to do it. And if there is a culture in an agency that clamps down on anybody who goes beyond the walls of that agency or goes to higher ups or whatever, if that agency does that, I mean, that is something that we need to take a look at.

I often cite the case of a hospital in my district where they were giving HIV/AIDS tests and hepatitis B tests, and the whistle-blower had evidence that the machinery that they were doing the tests with was malfunctioning. And this went on—they gave literally thousands of tests. And the company—I mean, the hospital came down—not the hospital, but certain people, you know, supervisors came down hard on these folks. And other folks could have died.

And I just—you know, that is why I talk about this culture of mediocrity, this culture of not worrying about our fellow man and woman, this culture which has this almost anti-empathy attitude. It just bothers me.

And I am not saying that the meat industry is like that. I am just saying that all of us have to fight against this. And I have said

it before. This is the United States of America, and we have gotten to where we have gotten to because of our moral authority, and we are the great Nation that we are because we do things right.

And I just think, you know, we can't legislate that, but one thing that is for sure, that every single person, when they are being paid with taxpayers' dollars, we would expect that they would do the right thing and that they would not, when they see something—

And I am going to tell you, that whistle-blower in Baltimore to me is a hero—shero—it was a woman. And she sat in my office for hours one Saturday, and I will never forget it, I mean crying because she had gone through so much. But she said, I would rather die, I would rather die than sit around and watch other people die because they got the wrong results.

And I would think that when we put people in those positions that is the attitude I want them to have, because that is what it is all about. So, I mean, in most instances, that may be one of the only ways you are going to find out.

So I just—Mr. Chairman, I say that—I know it may not apply so much to this panel, but I am just concerned. Of all the testimony that I have heard, I think that bothers me probably more than most.

And with that I will yield back.

Mr. KUCINICH. Mr. Cummings has once again put his finger on something that has some general cultural concerns here, and that is the level of trust that we take for granted, that it takes, you know, just to eat the food that we eat and how each of us, in the case of the panel, you are all mindful of that. Trust is what holds your industry together, Mr. Boyle. Trust is why people will come to buy your products, Mr. Eggleston, Mr. Salatin.

And, you know, we trust a technician about tests. We trust when we are starting our car we trust the tires. We trust when we get on a plane. Trust really holds everything together. There is no question about it.

When there is a violation of that trust, for whatever reason, you know the Hallmark/Westland case, for example, they had a stamp, as I understand it. It was a USDA stamp was on those products, told people you could rely on that. When that system breaks down, it is a problem for the whole country. And so, you know, that is what this meeting is about today.

This has been a very good panel, and I appreciate your participation. And this is a very long hearing already. We are about to begin the fifth hour of our testimony. But I want to say that each of you have brought something to this panel that is very important, and I appreciate your presence here.

I am going to ask staff to get the third panel ready. We may followup with some questions to you gentlemen. But I want to express the gratitude of the committee for your presence here.

And the second panel is dismissed. I would ask the third panel to please come up.

The committee will resume. For those who may have joined us mid-day, this is the Domestic Policy Subcommittee of the Oversight and Government Reform Committee; and the title of the hearing today, "After the Beef Recall: Exploring Greater Transparency in the Meat Industry."

We have heard from two panels already in a hearing that started around 1 o'clock, and we are going to hear from a third panel. I want to introduce that panel. We have outstanding witnesses on this panel.

We are going to start with Mr. Wayne Pacelle. Mr. Pacelle is the President and Chief Executive Officer of the Humane Society of the United States [HSUS]. The Humane Society of the United States is the Nation's largest animal protection organization. Mr. Pacelle has testified before Congress well more than a dozen times on a wide range of subjects, including agricultural policy.

In the 110th Congress, he appeared before the Senate Agriculture Appropriations Subcommittee to discuss the 6-week undercover investigation conducted by the HSUS at the Hallmark/Westland meat packing company in California in late 2007.

Mr. John J. McGlone is an animal and food sciences professor at Texas Tech University. His field of study includes the scientific basis of animal welfare. In his capacity as an institutional official at Texas Tech University, he oversees the animal care and use program on campus. He is also a fellow with American Humane and is on the board of trustees of the Association for the Assessment and Accreditation of Laboratory Animal Care International and serves as co-chair of the Federal—what is the name of that?

Mr. MCGLONE. Federation.

Mr. KUCINICH. It is Federation of Animal Science Societies and is working on a revision of the Guide for the Care and Use of Agricultural Animals in Teaching and Research. Is that correct?

Mr. MCGLONE. Yes.

Mr. KUCINICH. Now, finally, we have Mr. Adam Aronson. Mr. Aronson is the CEO of Arrowsight, and he founded ParentWatch in 1998.

I want to thank each of these witnesses. It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I would ask that you would rise and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record show that the witnesses answered in the affirmative.

Now, as with previous panels, I am going to ask that you give an oral summary of your testimony, to keep the summary under 5 minutes in duration; and your entire statement will be included in the hearing record.

And as of this time I am going to ask unanimous consent to put in the record certain correspondence that this committee received. That will be done.

[The information referred to follows:]



April 15, 2008

Chairman Dennis J. Kucinich and Ranking Member Darrell Issa
Domestic Policy Subcommittee
Oversight and Government Reform Committee
B-349 B&C Rayburn HOB
Washington, DC 20515

Dear Chairman Kucinich and Ranking Member Issa:

I am requesting that this letter be included in the official record for the Committee on Oversight and Government Reform Subcommittee on Domestic Policy hearing on April 17, 2008, entitled "After the Beef Recall: Exploring Greater Transparency in the Meat Industry."

I am the founder and CEO of FPL Food LLC (FPL), a cattle processing company located in Augusta, Georgia. I write today to comment on how FPL has effectively utilized a third party remote video auditing service to achieve a higher standard of animal handling compliance for the past two and a one-half years.

Since 2005, FPL has used remote video auditing services provided by Arrowsight, Inc. These services have been a strong compliment to our existing animal handling program and the continuous diligent oversight by USDA inspectors located at our facility. As with any type of data collection tool, the performance outcomes will only be as good as the management team in charge of leveraging the data. It is also worth mentioning that while FPL has benefited from the remote video auditing program though significant customization to fit our needs, we believe there are other staff-based alternatives to improving animal handling performance that can be equally or more effective depending on the plant management team.

FPL has spent considerable time and effort establishing the video auditing program and has worked with Arrowsight to design the necessary protocols that best suited the needs of our animal handling management team. Namely, we instituted a policy of having Arrowsight notify our plant supervisors anytime there is an animal handling compliance breach. This policy has been instrumental in enabling us to leverage the video auditing program by receiving very timely feedback on any animal handling issues. We have also found the random live sampling and video scorecard reports, which include hyperlinks to the audited video, to be highly effective in optimizing the performance of the animal handling staff. Plant supervisors at FPL use the video system periodically throughout the day and we also have a dedicated internal FPL employee who monitors for staff compliance across all available cameras.



After the recent meat recall, leadership at FPL had a heightened concern regarding the proper handling of non-ambulatory cattle, especially at night and with the truck drivers who deliver these cattle. In response to this issue, Arrowsight designed a complimentary new video auditing program whereby every thirty minutes on a twenty four hour basis, they review the previous thirty minutes by looking at sixteen still pictures that are each two minutes apart. This enables Arrowsight to quickly identify any non-ambulatory animals and alert our plant supervisors, who can then review the event to ensure proper handling procedures of these higher risk animals. This is a valuable tool for identifying the vast majority of non-ambulatory animals, which in general are very hard to identify given their low frequency.

Aside from the general benefits of improved staff performance from the system, FPL has also found these services to be useful in reassuring our customers who have extremely high expectations regarding the proper handling of our animals.

In closing, I am very proud of FPL's track record in animal handling and I am hopeful that the work we have done to effectively utilize remote video auditing services can benefit other suppliers in the future.

Warmest regards,

A handwritten signature in black ink, appearing to read "Francois Leger", written over a horizontal line.

Francois Leger
CEO



fieldale farms corporation

April 11, 2008

Domestic Policy Subcommittee of the Oversight and Government Reform Committee
Congress of the United States
House of Representatives
B-349B Rayburn House Office Building
Washington, DC 20515

Dear Sirs:

Thank you very much for the invitation to testify at the hearing on Transparency in the Meat Industry on Thursday, April 17, 2008. Unfortunately, I am unable to attend. However, I want to share with you my thoughts on the matter.

Fieldale Farms Corporation is a privately owned fully integrated chicken company in northeast Georgia. We have two slaughter plants located in Cornelia and Murrayville, Georgia. We process about 3,300,000 birds per week.

We were the first chicken company approved by the American Humane Association and recognized as being dedicated to the humane treatment of our chickens. AHA routinely audits our operations, and I am proud to say that we have passed with very high marks every time.

The first step of chicken slaughter is to remove the chickens from the cages in which they were transported from the farm to the plant and place them in shackles that convey them to the processing lines. We refer to this area as the "back dock." The back dock is staffed by about 20 men per shift.

At both of our plants, we constantly film the back dock operations. The film shows live on a television in the eviscerating manager's office and is stored on tape for two weeks.

During our job training, all of our people who contact live animals are taught the importance of proper animal welfare. Our back dock people know that their job includes making certain that the chickens suffer no injury before going to slaughter.

The camera system serves two purposes. One, it reinforces to our back dock personnel that we are serious about humane treatment of the chickens and that we are watching. Secondly, it says to our customers that we match our words with actions when it comes to humane practices.

555 BROILER BLVD. — P.O. BOX 558 — BALDWIN, GEORGIA 30511 — TELEPHONE (706) 778-5100
FAX: (706) 778-3767

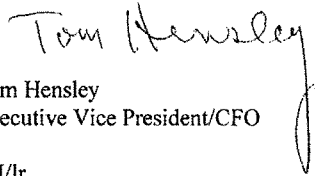
Domestic Policy Subcommittee of the Oversight and Government Reform Committee
Congress of the United States
House of Representatives
April 11, 2008
Page two

We are very proud of our plants. A standard part of our marketing effort is to have our customers tour our plants including the back dock. They are invited to watch the two weeks of back dock film if they desire, but we have never had anyone want to do so. We believe that showing our customers every step taken in processing their chickens increases their confidence in us and proves that we do both believe in and practice humane treatment of our chickens.

That being said, I do not believe that additional government supervision of chicken processing plants is warranted. The few publicized examples of inhumane treatment of live chickens are certainly rare exceptions to the general humane treatment of the birds. I would support required filming of the back dock operation, as we do, with occasional review by FSIS or an independent agency such as American Humane Association. Any control beyond this is not necessary.

Sincerely,

FIELDALE FARMS CORPORATION

A handwritten signature in cursive script that reads "Tom Hensley". The signature is written in dark ink and is positioned above the typed name and title.

Tom Hensley
Executive Vice President/CFO

TH/lr

Mr. KUCINICH. Let's start this third panel with testimony from Mr. Pacelle from the Humane Society of the United States. Thank you very much for being here.

STATEMENTS OF WAYNE PACELLE, CEO, HUMANE SOCIETY OF THE UNITED STATES; JOHN J. McGLONE, FELLOW, AMERICAN HUMANE, AND PROFESSOR, TEXAS TECH UNIVERSITY; AND ADAM ARONSON, CEO, ARROWSIGHT

STATEMENT OF WAYNE PACELLE

Mr. PACELLE. Mr. Chairman, thank you, and thanks for your typical great endurance on these many issues that you worked on.

A lot of ground has been covered by the two previous panels in the questioning sessions. I want to make three major points and then address some of the policy solutions that we would like to see the Congress grapple with.

One which hasn't come up much today has to do with the downer policy of the U.S. Department of Agriculture. In December 2003, the United States had its first BSE-positive animal found by the U.S. Department of Agriculture; and, in response, the USDA passed essentially an emergency rule to ban any downer cattle in the food supply.

Yet on the very same day that occurred and USDA's Agriculture Secretary Ann Veneman issued an emphatic decree saying no downer animals will get into the food supply, USDA issued notice 5-04 behind the scenes instructing inspecting veterinarians how to carry out the regulations. And in contrast to both the public claims by USDA and the very clear wording of the internal rule itself, the agency instructed inspectors to allow downed cattle to be slaughtered for human consumption if they initially appeared otherwise healthy but went down within the slaughter plant itself due to an acute injury. So the USDA was telling the public no downers, yet behind the scenes they told the inspectors to allow downers into the food supply.

We continue this very day to allow downers in the American food supply. We need a bright-line policy to stop this not just as a matter of humane handling but because of the food safety threats that downers pose in this country. I think this is outrageous, Mr. Chairman, that USDA is still allowing downers in the food supply.

With all this rhetoric, we have had now the largest meat recall in the country. After the mad cow case, which involved a downer, of course, in Washington State, we had more than 50 nations close their markets to U.S.-produced beef.

Second is the issue of whether the compliance systems are adequate. Now we have heard a lot of comment on that today, and during some of the previous hearings that have occurred on this issue we have also heard from the president of Hallmark. And I think it is important to point out that he testified last month that his company, "passed 17 outside audits and 12 additional internal audits." That is 29 audits.

Even on February 1, 2008, just a day or two after our investigation became public, an audit conducted by someone who, "retired from supervisory positions" in USDA's FSIS in 1997, after working there for 26 years, concluded, "I have reviewed the records and pro-

grams you have at your plant, and these are the best I have ever seen in any plant. You have excellent records of all your training programs and ongoing training of all employees. Your plant has passed numerous audits on humane handling of animals in this plant in the year 2007 and has no failures, which you should be very proud of.”

So we have a circumstance where USDA gave this plant consistent positives, third-party audits, internal audits, yet we saw some of the most revolting cruelty that this Nation has ever seen on these issues.

Something is amiss here, Mr. Chairman. These systems are obviously inadequate. It is not just one audit. We are talking 29 audits by third parties and internal, plus USDA’s continuing daily presence with its full cast of inspectors of five people.

I think this really—this is the third major point. The first point is the failure of the downer policy and the inconsistency of the policy. Second is the incredible disparity between these findings and the reality. The final point is the history of slaughter plant abuse.

We heard from the AMI lobbyist president that, you know, this is isolated. We have seen it in many cases. We have heard from USDA it is isolated.

Let me point out that every time an undercover investigation has exposed horrific treatment of animals at a slaughter plant, there are industry apologists who attempt to excuse it. If we look at the limited number of nonprofit efforts to investigate these plants, we see every time somebody has taken a close look there is a problem, not just Hallmark.

A 2007 Mercy For Animals investigation documented House of Raeford workers in North Carolina mutilating, hitting, and kicking live turkeys at a slaughter plant there.

In 2004, People for the Ethical Treatment of Animals documented Pilgrim’s Pride employees at a West Virginia slaughter plant stomping on live chickens, ripping their heads off, slamming them into walls, and kicking them like footballs.

In the same year, Compassion Over Killing revealed Perdue workers at a Maryland slaughter plant throwing live chickens and leaving dying birds to languish while they took their lunch breaks.

In another 2004 case, a USDA inquiry found that inspectors at an AgroProcessors cattle slaughter plant in Iowa were sleeping and playing computer games on the job while cows were being abused in horrific ways.

A 2001 Humane Farming Association investigation documented workers chained fully conscious, struggling cows upside down on an IBP slaughter line in Washington State as well as shocking cows who were confined in a chute.

Every time we look, Mr. Chairman, there are problems. If the AMI and the USDA think everything is fine, they are living in an alternative reality.

I know time is short. My testimony speaks to some of the policy reforms. We need to close the downer loophole. We need to strengthen enforcement. We need criminal penalties, criminal penalties for abusive acts toward the animals at the slaughter plants.

We have a situation now where USDA—this is really a farce to say that this enforcement regime, they shut down a plant for an

hour or two 12 times for humane handling. When we have 626 cattle plants and 619 pig processing plants in the country operating most days of the year, 12 times for humane handling? That is a farce.

I want to say that we need strong penalties for these criminal activities. Poultry, which represents 95 percent of all animals slaughtered in this country, more than 9 billion, are not even covered under the Humane Methods of Slaughter Act. There is legislation pending in Congress to address that issue.

And there is a bill before this committee, assigned to this committee called the Farm Animal Stewardship Purchasing Act that is a government procurement program that sets up basic standards for humane care for government purchases of animal products.

Those are just a small number of the policy reforms.

Again, we appreciate the opportunity to testify.

Mr. KUCINICH. Thank you, sir.

[The prepared statement of Mr. Pacelle follows:]



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Testimony

By

Wayne Pacelle

President and CEO

The Humane Society of the United States
Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, April 17, 2008
2154 Rayburn HOB
1:00 P.M.

"After the Beef Recall: Exploring Greater Transparency in the Meat Industry"

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify in the wake of a hidden-camera investigation conducted by The Humane Society of the United States at a slaughter plant in southern California. The Humane Society of the United States is the nation's largest animal protection organization with 10.5 million supporters nationwide, and I serve as president and CEO of the organization.

Our undercover investigator worked at the Hallmark/Westland Meat Packing Company for approximately six weeks at the end of 2007. The investigator witnessed and documented egregious mistreatment of animals, particularly downed cows too sick or injured even to stand or walk. He filmed workers ramming cows with the blades of a forklift, jabbing them in the eyes, applying painful electrical shocks often in sensitive areas, dragging them with chains pulled by heavy machinery, and torturing them with a high-pressure water hose to simulate drowning as they attempted to force crippled animals to walk to slaughter. In one case, he videotaped a cow who collapsed on her way into the stunning box. After she was electrically shocked and still could not stand, she was shot in the head with a captive bolt gun to stun her and then dragged on her knees into slaughter.

This investigation has done more than expose one company's abusive practices. It has led us to the inescapable conclusion that there are serious shortcomings in the U.S. Department of Agriculture's (USDA's) policy on handling downer cattle and the agency's overall inspection program.

Downed cattle are more likely to be infected with BSE – bovine spongiform encephalopathy or "mad cow disease." Studies also suggest that they may be more likely to harbor foodborne bacteria, such as *E. coli* and *Salmonella*, which kill hundreds of Americans every year, as these non-ambulatory animals often wallow in bacteria-laden waste and may have higher levels of intestinal pathogens due to stress. Children and the elderly are more likely to fall victim to severe illness requiring treatment and hospitalization as a result of both of these pathogens. For a more detailed discussion of the human health risks associated with the slaughter of downed cattle, please see the addendum to this testimony.

The Investigation

In fall 2007, our investigator applied for a position with the Chino-based Hallmark Meat Packing Company, a federally inspected slaughter plant, which supplied carcasses to Westland Meat Company, which, in turn, processed the carcasses into ground beef. The companies were affiliated and essentially treated as one entity; they operated from the same building and shared the same USDA registration number. From USDA's own records, we learned that in 2007 Westland was the second-largest supplier of beef to USDA's Agricultural Marketing Service (AMS). AMS purchases beef for distribution to needy families, the elderly, and also to schools through programs, including the National School Lunch Program, administered by the Food and Nutrition Service. Westland was

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named the USDA “supplier of the year” for the 2004-2005 academic year, and its meat went to schools in 47 states and D.C. during the two-year period covered by the beef recall.

It is critical to point out that we did not do a broad risk assessment of a large number of plants and then conduct a more thorough examination of a high-risk facility. The plant was selected at random, and during the course of the investigation, we learned that Westland was the number-two beef supplier to the National School Lunch Program and to other USDA commodity distribution programs. We learned after the field portion of the investigation that Hallmark/Westland had previously been cited for mishandling animals by USDA and had also been the subject of scrutiny by local animal welfare organizations.

The investigator's job at Hallmark was to help drive cattle from transport trucks and holding pens into a chute that led to the killing floor. He regularly worked grueling ten-hour days, five or six days a week. The job of getting tired, bewildered, and hungry cattle to move is challenging and made even more difficult when the animals are primarily end-of-production, or "spent," dairy cows, who are often sick, injured, and suffering.

He routinely witnessed blatant and commonplace cruelties inflicted on animals by employees who ignored regulations meant to prevent the torment and abuse of downed animals, simply so they could get these cattle who could not even walk into the kill box. These were not isolated incidents of mistreatment of downed cattle, but deliberate acts repeated over and over again. They were part of the culture of the operation.

Regardless of what time of day or night trucks arrived with animals to unload, a USDA veterinarian was only present in the live animal area twice daily at 6:30 a.m. and 12:30 p.m. – predictable times at which he merely noted those animals who could not stand and then approved the remainder for slaughter. Let me emphasize the lack of rigor in the approval-for-slaughter process. The veterinarian did not make an animal-by-animal inspection, but simply took a look at large groups of animals, perhaps 30 or 35 at one time, as they passed by him, and if the animals could stand or walk, he would approve them. The inspector typically approved 350 animals for slaughter in the morning and then about 150 animals in the afternoon inspection.

The horrific treatment of animals we documented is being downplayed as an unconscionable aberration – the work of just a handful of rogue employees. This is a faulty characterization. It has come to light that Hallmark/Westland had a long, documented history of abusing downed cattle. USDA's Food Safety and Inspection Service (FSIS) cited Westland in 2005 for mishandling animals, and the local Pomona Valley Humane Society and SPCA notified USDA three times about possible violations in 1996 and 1997. In 1996, the Pomona Valley Humane Society sent a letter to Hallmark, with a copy to USDA, stating: "We have had numerous incidents with your facility in the past involving downer animals and loose animals creating public safety issues." In 1993, Farm Sanctuary, a national animal protection organization, produced undercover footage of downers being lifted by forklift at Hallmark, prompting introduction of a California downer cattle law the next year. Either management provided instructions to get the downers moving or was asleep at the wheel and let employees run wild – in either case, it's an indictment of management. The so-called training that employees received was a perfunctory, paper exercise, making a mockery of subsequent claims by the company's president that the plant had a rigorous humane handling training program. The only real training that our investigator received on the subject was in how to alter his behavior to avoid being caught for violations. Just before an announced audit, Hallmark instructed employees to conceal their conduct and stop using electric prods while the auditors were present.

While industry representatives have not attempted to deny that the abuses at Hallmark occurred, many have been quick to claim that this was an exception to the industry's widely-embraced commitment to animal welfare. But this was a case of one HSUS investigator uncovering abuses that went unnoticed or unattended by five full-time USDA inspectors at a plant where other animal protection organizations had already flagged concerns to the agency.

Without having conducted similar investigations at the hundreds of other cattle slaughter plants in the country, we just can't know how frequently the scenes we saw from the Hallmark investigation occur elsewhere. To say that we do know that they do not occur is a statement of faith, not fact. If the industry or USDA had known about the abuses we witnessed at Hallmark, they would have put a stop to it presumably. But they claim they didn't know, and that fact should make us skeptical about their confident assertions that such conduct does not occur elsewhere.

Similarly, we should not be confident that these problems will not continue based on the results of USDA's recently-completed audit of a number of plants. The media attention from our investigation and the recall obviously put everyone at slaughter plants on notice about these issues, and we can assume that they were on their "best behavior" while the spotlight was on them and while they knew USDA was conducting its own short-term audit. Even so, some problems were found at four of the 18 slaughter plants audited.

USDA Policy

In terms of the larger picture of USDA oversight, we also know that slaughtering nonambulatory cattle was not isolated to this plant because it is, in fact, allowed under current USDA rules. A shift in policy to allow downed cattle in the food chain marks a retreat from a strict no-downer policy that USDA had in place on the books since the beginning of 2004.

Specifically, on December 30, 2003, USDA announced: "Effective immediately, the USDA will ban all downer cattle from the human food chain."¹ This announcement came one week after public disclosure of the first U.S. case of BSE – a dairy cow in Washington State who was identified by a USDA veterinarian as downed due to calving injuries and later tested positive for BSE.

USDA broadcast its no-downer policy as a key protective firewall against BSE. Before that time, most Americans had no idea that meat from animals too sick or injured to walk on their own could end up on their dinner plates. The agency's high-profile announcement helped ease public panic in the United States over the first domestic BSE case and maintain consumer confidence both in the safety of the food supply and in the basic humane treatment of animals at slaughter plants. The announcements were also widely publicized to provide assurances to America's trading partners, dozens of which had closed their markets to U.S.-produced beef after the BSE finding.

Unacceptable Loophole

In January 2006, the USDA's own Office of the Inspector General (OIG) chastised the agency for its inconsistent application of policies and regulations related to downed animals after observing downers processed for human food. The use of a forklift was observed to transport the animals to the slaughter area. **The OIG found that 29 downer cattle were slaughtered for human food at two out of the 12 slaughter plants checked during a 10-month period.** If this were a representative sample it would suggest that more than 100 slaughter plants may have been processing downed cattle across the country. The OIG audit noted the lack of documentation on the animals' fitness for consumption.

For years, USDA has publicly boasted about its comprehensive no-downer policy but circumvented it behind the scenes with a loophole that permitted slaughter of some cattle unable to walk. It is hard to overstate the duplicity in this action. The agency has failed to follow its official interim policy published on January 12, 2004, which specified that all downer cattle would be excluded from the human food supply "regardless of the reason for their nonambulatory status or the time at which they became nonambulatory." The published USDA notice continued, "Thus, if an animal becomes nonambulatory in route to the establishment due to an acute injury, it must be humanely removed from the truck, humanely euthanized, and the carcass properly disposed of. Likewise, cattle that become nonambulatory on the establishment premises, such as an animal that breaks its leg as it is unloaded from the truck, are also required to be humanely moved, humanely euthanized, and the carcass properly disposed of."²

The agency's January 12, 2004 regulation defined "nonambulatory disabled" cattle as any who "cannot rise from a recumbent position or...cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic

conditions.”² Since BSE can result in an animal going down either directly, because of brain damage, or indirectly, by predisposing an animal to injury, these downed cattle were to be euthanized rather than slaughtered for human consumption.

The same day that the regulations were published, however, the USDA issued Notice 5-04 behind-the-scenes, instructing inspecting veterinarians how to carry out the regulations. In contrast to both the public claims by USDA and the interim rule itself, the agency instructed inspectors to allow downed cattle to be slaughtered for human consumption if they initially appeared otherwise healthy but went down within the slaughter plant itself due to an acute injury.³

In July 2007, USDA finally made permanent its so-called “ban” on slaughtering downer cattle. But instead of closing the loophole identified by the OIG, the agency codified it, acknowledging that some downer cattle have been, and will continue to be, processed for human food. USDA’s final rule specifies that “FSIS inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis.”⁴ In other words, those who are able to walk when initially inspected by USDA but then keel over and cannot stand up again can nevertheless be slaughtered, and the meat can be sold.

This loophole is reckless from a public health perspective and promotes the inhumane handling of downer cattle. It is unacceptable on both counts.

A food safety system that relies on inspectors evaluating downers on a case-by-case basis is unworkable. Determining why an animal is down is challenging if not impossible for inspectors because injury and illness are often interrelated – e.g., a broken leg may simply be the observable result of the weakness, abnormal gait, or disorientation associated with an underlying disease. At least three of the documented cases of BSE in North America were identified as downers due to injury, not illness, showing how difficult it is for inspectors to reliably sort out which non-ambulatory animals are “safe.” The first case of BSE discovered in Canada was thought to be “suffering from a broken leg.”⁵ The first identified case in the U.S. similarly did not seem to display any BSE symptoms, but was reported down due to a calving injury.⁶ She was seemingly picked at random as one of perhaps less than 1% of the downed cattle tested for mad cow disease in the United States up until that time.⁷ Another Canadian case was suspected of injury rather than disease. The farmer reportedly “didn’t suspect anything was seriously wrong when one of his cows slipped on the ice and hurt itself....”⁸

Even if “only” a broken leg is involved, dragging an animal with a fracture is just as cruel, if not more so. If you’ve ever suffered a broken bone, you can imagine the pain of being pulled by chains or rammed with a forklift in that condition.

Allowing even a small number of downers into the food supply is pennywise and pound-foolish. For the limited economic gain of processing a few extra animals for human consumption, the industry is risking multimillion-dollar recalls and the closing of export markets. A bright line policy on not allowing downers to enter the food supply would not only help to prevent egregious cruelty to these disabled animals at slaughter plants, but in fact would protect the short-term and long-term economic interest of the meat industry.

Lack of Enforcement

The problems engendered by USDA’s loophole are exacerbated by its lax enforcement of the downer rules and humane handling requirements. As documented by our undercover investigation, USDA inspectors only conducted cursory observations, coming to check on animals just once or twice a day and disregarding their condition for the remaining hours. While USDA inspectors are required to monitor and verify humane handling in connection with slaughter, including offloading, holding and driving animals

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in pens and chutes, a USDA inspector was rarely present during offloading and never observed by our investigator in the pens, except during the aforementioned predetermined twice-daily times of 6:30 a.m. and 12:30 p.m., or by the chutes.

Despite all the media attention surrounding our investigation and the subsequent beef recall and criminal charges against plant workers, sick and injured cattle can and likely will still be slaughtered and put into the American food supply, and cruel treatment will continue, unless changes are implemented to protect animal welfare and protect human health and that of the nation's most vulnerable citizens.

Public Reaction to Investigation

The response to the investigation was overwhelming, with members of the public, opinion makers, and lawmakers expressing shock at the findings and demanding recourse. Many voiced the view that it was very difficult to watch the scenes unfold, but that they were grateful to have the information and felt the need to know what is going on at slaughter plants. There has been nearly unanimous condemnation of the abuses revealed in the video footage, including by industry leaders and even the CEO of Hallmark, who acknowledged that the conduct was egregious.

The public wants greater accountability and transparency. This extends not only to slaughter plants handling cattle, but to all facilities processing animals for food. Birds, primarily chickens, make up more than 95% of farm animals killed for food in the United States. The public doesn't want just 5% of the problem addressed. In an opinion poll conducted in 2005, 81% of Americans agreed that U.S. law should require the humane slaughter of birds, such as chickens, turkeys, and ducks. USDA has taken the position that the Humane Methods of Slaughter Act doesn't cover poultry. Nine billion birds are slaughtered here each year – and they also deserve humane treatment and adequate oversight. Current processing methods typically involve workers grabbing birds at a very intense pace and shackling them upside-down by their legs on a fast-moving mechanized line. Still conscious, the birds' heads are dragged through an electrified water bath designed to immobilize them, then they are passed through a neck-slicer and then through scalding water to loosen their feathers. Due to the speed of the assembly line and their own desperate motions, many birds evade both the immobilization bath and the neck-slicer and are literally scalded to death.

Needed Steps for Improvement

Private undercover investigations such as the one we conducted play an important role in raising public awareness, but they cannot substitute for effective day-to-day oversight of all slaughter plants by the responsible agency.

1) Close Loophole

First, rules must be clear so that enforcement is not an inherently subjective process prone to mistakes and abuse. In particular, the downer loophole must be closed. Bright line rules such as a simple no-downer policy are easier to enforce. The current flawed rule depends on plant workers summoning a USDA inspector back to reevaluate an animal who becomes nonambulatory after initial inspection, in order for the inspector to decide if the animal can be slaughtered, a system that seems bound to fail given the enormous pressure plant workers are under by their company superiors to move the maximum number of animals quickly to slaughter. This system creates financial incentives for precisely those abuses that we witnessed in the undercover footage. In addition, this system depends on inspectors making snap judgments about the perceived health and safety of each downed animal, when we know how difficult, if not impossible, it is for inspectors to determine the full reason(s) behind a particular animal's inability to stand and walk.

An unequivocal, truly comprehensive, highly visible, and vigorously enforced ban on the slaughter of all downed animals for human consumption is needed to protect food safety and animal welfare. For the animals, removing current incentives that encourage workers to try every cruel tactic imaginable to move downers to the kill box would alleviate suffering. If crippled animals cannot be sold for food, slaughter plants have no reason to prolong their misery to try to get them through the slaughter process. Closing the loophole would also help create an incentive for all involved in the production chain to minimize hazards that can cause animals to become downed in the first place.

USDA can revise its rule immediately, restoring the language it promulgated in January 2004, and then interpret and enforce it properly. And the Congress can pass legislation, such as the Downed Animal and Food Safety Protection Act (H.R. 661/S. 394), to codify a clear national no-downer policy.

2) Strengthen Oversight and Enforcement

The USDA must rework its inspection program to ensure meaningful compliance. This will require a combination of measures – there is no one silver bullet to cure all of the problems. More inspectors observing live animals are needed, and all inspectors should be trained and directed to monitor the treatment of live animals to ensure that they are handled humanely. Inspectors must understand that their oversight responsibilities begin at the moment animals arrive at slaughter premises, including when the animals are on trucks at slaughter facilities. An inspector should meet each truck when it arrives on the premises and should order the immediate humane euthanasia and condemnation of any cattle who are non-ambulatory. Egregious conduct such as forcefully striking an animal with an object, dragging an animal, ramming or otherwise attempting to move an animal with heavy machinery, or using electric shock, water pressure, or other extreme methods, should be explicitly prohibited and those policies established in a formal rule to take effect immediately. Inspections should be unannounced and not on a predictable schedule. They should include undetectable inspections through video surveillance accessible for viewing by independent third parties, to provide supplemental oversight. Slaughter plants should be required to install and ensure ongoing operation of video cameras that allow for viewing of all animal handling, from the time each animal arrives at the slaughter premises through the time of death. Video footage should be preserved for forensic purposes so that it is possible to go back and look at particular scenes to determine if violations occurred. It would be prudent to rotate inspectors to ensure that they do not become too close with plant personnel. Finally, we believe it would be worthwhile for some USDA personnel – perhaps under the OIG – to conduct undercover investigations at slaughter plants on an ongoing basis. This would provide a significant deterrent against violations, and expand on the capacity of private nonprofit organizations to carry out such investigations.

3) Establish More Meaningful Penalties

Current federal law does not provide for criminal penalties, even in cases of repeat or egregious offenses, for violations of humane handling standards. Regarding civil penalties, suspension of plant operations is often limited to just a few hours, and the public never hears about the problems at the plant or the temporary shut-down. With the spotlight of media attention focused on the agency after our investigation results came to light, USDA opted to propose the largest voluntary beef recall in history. While we appreciated the agency's prompt response, going forward, we suggest that it would be better to be vigilant on an ongoing basis with consistent oversight and meaningful criminal and civil penalties to deter misconduct, rather than generally turning a blind eye to problems that occur and then taking draconian steps in reaction only when major attention is generated by a nonprofit organization. Just as we've seen with recent massive cancellations of airline flights necessitated by the FAA's failure to act earlier regarding safety concerns with particular airplanes, and with mounting problems in the economy spurred by weak oversight of mortgage practices, it is neither in the interests of the public nor industry for the federal government to be lax in its day-to-day oversight responsibilities and then be forced to take draconian steps for crisis management.

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4) Ensure Humane Federal Procurement

One aspect of the problems revealed by our undercover investigation could be addressed by legislation under the jurisdiction of the Oversight Committee – H.R. 1726, the Farm Animal Stewardship Purchasing Act. This bill would set basic animal welfare standards for producers who sell food to the National School Lunch Program and other federal programs, including requiring veterinary treatment or humane euthanasia for downed animals. It responds to the public's desire for basic humane treatment as well as food safety (recognizing the connection between those two), and addresses how animals are handled for the bulk of their lives before they reach slaughter plants – setting modest requirements for adequate shelter, food, water, and medical care. H.R. 1726 follows the model of the original Humane Methods of Slaughter Act, enacted a half-century ago in 1958, which initially applied only to those producers who voluntarily choose to do business with the federal government. This legislation does not mandate industry-wide compliance, but would have the federal government leading by example, ensuring that tax dollars are not used to purchase products raised with egregiously inhumane practices. Based on publicly-available data, we estimate that this may involve approximately 1% of total meat, eggs, and dairy products sold in the United States. We urge the committee to move this important legislation forward expeditiously to enactment.

Thank you for the opportunity to testify here today on these important oversight issues affecting animal welfare and food safety.

ADDENDA

Timing of HSUS Contact with USDA on Case

HSUS conducted a thorough investigation that took several months, with our investigator undercover at the plant for six weeks during October and November 2007, and then the investigation continuing after he left the site as we analyzed documents and compiled further evidence. These are long-term investigations, and we don't parachute in and know everything there is to know in a single day. If we are going to accuse a company of wrongdoing, with broader implications for the public, we want to make sure we collect as much evidence to support our claims as possible, and we want to be sure to present a fair and accurate picture of what went on at the plant.

Because USDA has rarely taken action against slaughter plants for violating humane handling protocols, and also because few local law enforcement agencies have ever taken on animal cruelty cases involving the mistreatment of farm animals, we thought it essential to amass a preponderance of evidence at this plant before terminating the field portion of the investigation. There were fundamental humane treatment and food safety issues at issue, and we did not want to see the proper authorities dismiss the investigation as incomplete or inconclusive, and to decide not to take corrective action.

As soon as the field portion of the investigation concluded and our team assessed and organized the enormous volume of video and other research materials, we met with staff from the San Bernardino District Attorney's office in mid-December. At that time, we provided them the evidence of criminal conduct and encouraged them to prosecute the perpetrators. Animal cruelty crimes are typically prosecuted by local and state law enforcement, and we knew the unacceptable abuses captured in the video footage showed that California animal cruelty and downer protection laws had been violated.

The D.A.'s office asked for extra time to assess this information before we released it. Staff at that office indicated to us that they planned to take action but they were unable to provide a specific time line. Because of our history of working cooperatively with local law enforcement on animal cruelty cases, and the obvious intention of the personnel in the D.A.'s office, we acceded to their request. But at the end of January, we decided that we had an obligation to make the information public and could wait no longer, even if the D.A.'s office was about to take enforcement action and file charges against the perpetrators. Although the D.A.'s office had indicated that they planned to share the information with USDA, before we released the information to the press, I personally called a senior official at USDA to make sure the agency knew what was about to be brought to public attention.

Frankly, we did not turn to the USDA first because the agency has too often ignored complaints about serious animal welfare abuses, even when they are associated with known public health risks. We didn't want to turn down a dead end with so much at stake. In fact, it's been reported during the past few weeks that other animal protection organizations had investigated downer cases at this same Hallmark plant and brought the information to USDA's attention on several occasions, yet the mistreatment persisted.

Moreover, USDA was directly implicated in the problems we uncovered at this plant. The agency has day-to-day oversight responsibility, and was complicit in the failures there. Not only was USDA on site throughout every shift when these abuses occurred, the agency was a primary purchaser of meat from the plant and had awarded the company the honor of being named USDA "Supplier of the Year" for the 2004-2005 academic year. Westland was the #2 beef supplier to the National School Lunch Program and to other USDA commodity distribution programs.

We're glad that USDA is taking this matter seriously now, and we're cooperating fully with the agency as it considers this case and the broader implications for industry oversight. I also note that we have led the effort to marshal substantial congressional support each year since 2001 to increase funding for USDA to better enforce the federal humane slaughter law and prevent this type of animal cruelty.

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Human Health Risks Associated with the Slaughter of Downed Cattle

The slaughter of downed cattle raises several serious food safety issues. Some studies have shown that nonambulatory cattle may suffer from higher rates of foodborne pathogens.⁹

Texas A&M University researchers were among the first to alert the medical community of the potential for downed cattle to present a vehicle to contaminate the human food supply with bacterial pathogens. They studied 30 downed cattle who had no outward signs of illness, except for inability to rise, and had all passed antemortem inspection. Even though these nonambulatory animals appeared otherwise healthy, when the researchers took bacterial cultures, they found cows infected with *Salmonella* and *E. coli*. The researchers concluded: "Results of this study of 30 cattle indicate that pathogens may be circulating in the blood of some recumbent cattle at the time of slaughter."¹⁰ Commenting on areas of concern, the scientists noted:

It should be remembered that much of the meat from recumbent cattle goes into the production of ground beef, which, because of the grinding process and extra time it spends at a temperature higher than the whole carcasses, usually attains a high bacterial cell count per gram by the time processing is finished. Contaminated meat used to make ground beef would also contaminate subsequent clean meat exposed to common machinery (e.g., grinders) and, thus, would increase the danger of contamination.¹⁰

This research shows that even when downed animals appear otherwise healthy, they may be harboring dangerous pathogens.

The majority of nonambulatory cattle are dairy cows.⁹ Virtually all dairy cows are ultimately slaughtered for human consumption in the United States.¹¹ Annually, 6 million culled dairy cows enter the food chain as ground beef,¹² accounting for at least 17% of the ground beef produced in the United States.¹¹ Since the muscles of dairy cows have a lower fat content, they are commonly used in producing the more expensive "lean" hamburger.¹³

According to a 2003 review, downed dairy cattle "may harbor greater numbers of pathogens, and their slaughter may increase spread of pathogens at the slaughter establishment."¹⁴ In *Meat & Poultry*, research is cited to explain why nonambulatory cattle tend to have higher levels of bacteria on their carcasses: "Lame animals spend more time lying down, which increases the likelihood they will be contaminated with fecal matter."¹⁵ In addition to the potential for contamination of the meat with fecal pathogens, when dairy cows are slaughtered, "[k]nives, carcasses and the hands of personnel may be contaminated by contents of the mammary gland when this is removed from the cow during processing."¹¹ Intramammary infections (mastitis) affect up to nearly two-thirds of cows in U.S. dairy herds¹⁶ and are one of the most common reasons dairy cows are sent to slaughter.¹¹ Inappropriate excision of the udder during the slaughter process can contaminate the rest of the carcass with milk that could contain *Listeria* and other milk-borne pathogens. A 1997 review of the microbiological hazards of eating meat from culled dairy cows concluded: "In the USA, dairy cattle are raised and managed with increasing intensification, and this intensification may promote the maintenance of a variety of micro-organisms which could be pathogenic to humans through food."¹¹

***E. coli* O157:H7**

In 2003, a study funded by the USDA was published that investigated the "potential impact to human health that may occur following consumption of meat derived from downer dairy cattle" by measuring infection rates of one of the most virulent foodborne pathogens, *E. coli* O157:H7. The investigators found

that downed cows were 3.3 times more likely to harbor the potentially deadly *E. coli* strain than walking culled dairy cows. The researchers concluded that “downer dairy cattle harboring *E. coli* O157:H7 at slaughter may be an important source of contamination and may contribute to the health risk associated with ground beef.”¹⁷ The results of this study led USDA Microbial Food Safety Research Unit Research Leader John B. Luchansky to question whether, based on *E. coli* alone, nonambulatory cattle should be excluded from the U.S. meat supply.¹⁸

E. coli O157:H7 infects tens of thousands of Americans every year, causes dozens of deaths,¹⁹ and may be the leading cause of acute kidney failure in previously healthy U.S. children.²⁰ Speculatively blamed in part on the increasing intensification of dairy farming,²¹ prevalence rates in U.S. dairy herds have ranged up to 100%.²² Quoting USDA researcher Cairiona Byrne and colleagues: “Due to the ubiquity of *E. coli* O157:H7 among cattle, as well as its low infective dose and the severity of the resistant illness in humans, effective control of the pathogen may be possible only by eliminating this microorganism at its source rather than by relying on proper food handling and cooking thereafter.”¹⁷

A 2005 review in the *Journal of Dairy Science* likewise concentrated on the risk of contracting virulent strains of *E. coli* from eating ground beef from dairy cows that may be tainted with fecal material. These toxin-producing strains can cause hemorrhagic colitis and progress to kidney failure, coma, and death, particularly in young children.²⁰ Dairy cattle “enter the food chain as ground beef,” the review reports, and “[a]s a result, downer dairy cows harboring STEC [Shiga toxin-producing *E. coli*] at slaughter can be a health risk to humans.”¹² Meat from diseased and disabled cattle has also been implicated in a similar life-threatening disease in dogs.²¹

Salmonella

Salmonella infection hospitalizes thousands of Americans every year, kills hundreds, and can lead to chronic conditions such as arthritis, bone infections, cardiac inflammation, and neurological disorders.²³ According to the Centers for Disease Control and Prevention, *Salmonella* strains in the United States are growing resistant to nine different antibiotics.²⁴ One strain, known as *Salmonella* Newport MDR-AmpC, is even growing resistant to ceftriaxone, a powerful antibiotic vital for combating serious infections in children.²⁴

Multiple outbreaks of this new multidrug-resistant *Salmonella* strain have been tied to dairy farms,²⁵ ground beef made from dairy cows,²⁶ and dairy products.²⁷ Investigating one deadly outbreak of antibiotic-resistant *Salmonella* involving hundreds of people, California public health officials traced the cases back to meat from infected dairy cows slaughtered for hamburger. In their report published in the *New England Journal of Medicine*, they were able to correlate risk of contamination with the slaughter plants that received the most moribund and dead cattle. The researchers noted: “Stressed animals are more likely to shed *Salmonella* in large numbers.”¹³

In addition to the immunosuppressive effect of stress, nonambulatory animals may also be more likely to shed pathogenic bacteria, “[s]ince animals going to slaughter are generally in a temporary state of starvation, and it is known that starvation causes *E. coli* and *Salmonella* to proliferate” due to changes that occur in the animal’s rumen. By the time most cattle are slaughtered, they have been starved for variable periods of time, in part because empty rumena are easier to eviscerate.²¹ This may be particularly relevant to downed cattle populations who may be left to starve for extended periods before they are finally slaughtered.

Carolyn Stull of the University of California-Davis School of Veterinary Medicine has studied *Salmonella* infection in downed cows and reported results at a 2004 American Meat Institute conference. Fifty downed cows were sampled and seven were found to be infected with *Salmonella*. Despite infection, however, five of the seven infected cows, including at least one cow who was septicemic, were known to

have passed USDA antemortem inspection for human consumption.²⁸ Stull and colleagues reportedly identified 6 out of 20 nonambulatory cattle sent to a slaughter facility to be fecal shedders of *Salmonella*.²⁹

Anthrax

Anthrax is a farm animal disease that can infect, though very rarely, the human meat supply.³⁰ In 2000, 32 farms were quarantined for anthrax in the United States.³¹ That summer, at least five people were exposed to meat “highly contaminated” with anthrax from a downed cow who was approved for slaughter and human consumption. These cases were reported by the Centers for Disease Control and Prevention as “Human Ingestion of *Bacillus Anthracis*-Contaminated Meat.”³² Had a ban on the slaughter of downed cattle been in effect, these people may have been spared. Subsequently, a family stricken with gastrointestinal, oropharyngeal, and meningeal anthrax tied to the consumption of a sick sheep was reported,³³ suggesting it may be prudent to exclude all nonambulatory animals – not just cattle – from the human food supply.

Frank Garry, the coordinator for the Integrated Livestock Management Program in the College of Veterinary Medicine and Biomedical Sciences at Colorado State University, reportedly suggests that the slaughter of nonambulatory farm animals may present a threat to national security:

The threat of bioterrorism adds one more reason to end the use of nonambulatory animals in human food. An animal that is unable to walk because of illness should probably not be processed for human food consumption, regardless of whether the animal was intentionally or unintentionally contaminated. As long as the USDA continues to slaughter diseased livestock, it is possible that a bioterrorist attack could make people very sick and undermine confidence in American agriculture.³⁴

Culled dairy cows may present particularly vulnerable agroterrorist targets as they are slaughtered and ground into hamburger. “Given that only a single infected carcass can contaminate a large lot of ground beef,” wrote USDA researchers in a 1996 review, “it is possible that, whereas in the past an infected animal would produce only a small number of cases, such an animal could now cause a large, widespread outbreak.”³⁵ According to Robert Tauxe, Chief of the Foodborne and Diarrheal Diseases Branch of the Centers for Disease Control and Prevention, each burger may reportedly be made from the flesh of hundreds or even thousands of different cows.³⁶ One hypothetical model suggests that a single downed cow infected with a pathogen such as *E. coli* O157:H7 could theoretically contaminate more than 100,000 hamburgers with an infectious dose.³⁷

Bovine Spongiform Encephalopathy

Bovine spongiform encephalopathy is a transmissible spongiform encephalopathy (TSE) of cattle that may manifest with behavioral symptoms, earning the disease its colloquial name “mad cow disease.” The rendering of sheep infected with an ovine spongiform encephalopathy (known as scrapie) into cattle feed may have led to the emergence of BSE.³⁸ In modern animal agriculture, protein concentrates, or “meat and bone meal” – terms that encompass “trimmings that originate on the killing floor, inedible parts and organs, cleaned entrails, fetuses”³⁹ – are fed to dairy cows, for example, to improve milk production.⁴⁰ According to the World Health Organization, nearly 10 million metric tons of slaughter plant waste is fed to farm animals every year.⁴¹

Although the first case of BSE was documented in the United Kingdom in 1986, there reportedly exists “very sound” evidence that a rare form of the disease was already circulating in the United States.⁴² One year before BSE was initially reported in Britain, Richard Marsh, chair of the Department of Veterinary Science at the University of Wisconsin-Madison, was alerting dairy producers of the possibility that a

“previously unrecognized scrapie-like disease in cattle” existed in the United States⁴¹ – a concern borne out of investigations of sick mink.

Mink have proven to be sentinel animals, like canaries in coal mines. They were reportedly the first, for example, to show toxicity from the vaginal cancer-causing synthetic estrogen diethylstilbestrol (DES) and the industrial carcinogens polychlorinated biphenyls (PCBs).⁴² Since 1960, there have been four outbreaks of mink spongiform encephalopathy known as transmissible mink encephalopathy (TME) on U.S. fur farms.⁴³ This was perplexing, as researchers had been unable to orally infect mink with scrapie-infected sheep brains.⁴⁴

A clue to the origin of the disease came in 1985, when TME devastated a population of farmed mink in Wisconsin who had reportedly not been fed any sheep.⁴⁵ The meat portion of their diet evidently consisted almost exclusively of downed dairy cows.⁴⁶ Marsh hypothesized that there was a form of BSE in the United States that manifested itself as more of a “downer” cow disease than a “mad” cow disease.⁴⁴

Mink were found to be experimentally susceptible to BSE; when mink were fed BSE-infected brains from British cattle, they died from a spongiform encephalopathy.⁴³ The disease was experimentally spread from mink to cows and from cows back to mink.⁴⁶ The critical experiments, though, involved inoculating the brains of U.S. sheep infected with scrapie into U.S. cattle.⁴⁷ In England, scrapie-infected cows go “mad,” twitching and kicking. But, in the United States, the “real surprise,”⁴⁰ as Marsh recounted, was that scrapie-infected cattle instead developed difficulty in rising and terminal recumbancy⁴⁸ like downed cattle do.⁴⁷ “The signs that these cattle showed were not the widely recognized signs of BSE – not signs of mad cow disease,” Marsh reportedly said. “What they showed was what you might expect from a downer cow.”⁴⁹ Scientists have identified multiple strains of scrapie.⁵⁰ Marsh posited that one of the U.S. strains may have jumped to cattle, creating a form of BSE native to the United States.⁴² Said Marsh to a reporter: “That’s the only conclusion you can draw.”⁴⁰

Every year in the United States, estimates range from 195,000⁵¹ to 1.8 million⁵² cattle who collapse for a variety of metabolic, infectious, toxic, and/or musculoskeletal reasons and are too sick or injured to rise.⁹ Extrapolating from the proportion of nonambulatory cattle found in European⁵³ and U.S.⁹ surveys, the number of nonambulatory cattle in the United States may be on the order of 500,000 a year. A governmental survey of dairy producers across 21 states reportedly found that 78.2% of dairy operations had nonambulatory cows during 2004.⁵⁴ Though these animals may not have been fit enough to stand, a limited investigation of USDA slaughter plant records between January 1999 and June 2001 showed that most were still ruled fit for human consumption.⁵⁵

Based on findings in Europe⁵³ and the speculative evidence of a rare form of mad cow disease striking downed cows for decades in the United States,⁵⁶ nonambulatory cattle should be considered to be a particularly high-risk population. According to the Food and Drug Association (FDA): “Experience has shown that nonambulatory disabled cattle...are the population at greatest risk for harboring BSE.”⁵⁷ The FDA cites Swiss data showing a 49-58 times higher chance of finding BSE in downed cattle than in cattle reported to veterinary authorities as BSE-suspect under passive surveillance.⁵⁸ Indeed, 12 of the 15 BSE-infected cattle discovered in North America by February 1, 2008, have reportedly been nonambulatory.⁵ And the 16th BSE-infected case found in North America, a cow in Canada reported on February 26, 2008, was reported to the HSUS as being a downer.

Though the riskiest tissues – the brains, eyes, and spinal cords – of most cattle are now excluded from most food items in the United States,⁵⁹ there may be contamination of muscle meat via aerolization of the spinal cord during carcass splitting.⁶⁰ Significant amounts of central nervous system debris found accumulating in the splitting saws used to halve the carcasses may have the potential to then transfer contagion from one carcass to the next.⁶¹ Although, technically, processors are instructed to knife-trim “material grossly identifiable as brain material, spinal cord, or fluid from punctured eyes,”⁶² researchers

have reported finding nervous tissue contaminating muscle in a commercial slaughter plant.⁶³ Contamination of meat derived from cattle cheeks with brain tissue can also occur if the cheek meat is not removed before the skull is fragmented or split.⁶⁴

Captive bolt stunning, the predominant method used to render cattle insensible before exsanguination,² may blow a shower of embolic brain tissue into the animals' bloodstream. In one experiment, a biological marker applied onto a stunner bolt was later detected within the muscle meat of the stunned animal. The researchers concluded:

This study demonstrates that material present in...the CNS [central nervous system] of cattle during commercial captive bolt stunning may become widely dispersed across the many animate and inanimate elements of the slaughter-dressing environment and within derived carcasses including meat entering the human food chain.⁶⁵

Captive bolt stunning may also lead to ejection of brain tissue into the abattoir from the hole made by the captive bolt onto slaughter plant equipment, as well as the hands and aprons of workers removing the animals' heads.⁶³ A follow-up study published 2004 in the *Journal of Food Protection* determined that "this method of slaughter of an animal infected with bovine spongiform encephalopathy would be likely to contaminate edible parts of the carcass with infective material."⁶⁶ Texas A&M University researchers found bodily brain fragments as large as 14 cm (5.5 in). The researchers concluded that it was likely that BSE pathogens could potentially be "found throughout the bodies of animals stunned for slaughter."⁶⁷

Despite the potential for CNS contamination and the fact that peripheral nerves⁶⁸ and blood⁶⁹ found in all muscles may carry infection, the USDA⁷⁰ and the National Cattlemen's Beef Association⁷¹ have attempted to assure consumers that beef is safe to eat, arguing that the infectious agent is not found in muscle meat. However, Stanley Prusiner, the director of the Institute for Neurodegenerative Diseases at the University of California, San Francisco, and winner of the Nobel Prize in Medicine for his discovery of prions, the cause of the BSE and other TSEs, proved in mice that muscle cells themselves were capable of forming the potentially infectious agent.⁷² "I found prions in the hind limb muscles of mice," Prusiner stated, "at a level approximately 100,000-fold higher than that found in blood."⁶⁹ Prusiner reportedly described the studies relied upon by the Cattlemen's Association as "extraordinarily inadequate,"⁷³ and follow-up studies in Germany confirmed his findings, showing that animals who are orally infected may indeed end up with prion contamination throughout the muscles of their bodies.⁷⁴

Although the risk of contracting BSE appears vanishingly small in the United States given how few cattle have tested positive, the neurodegenerative disease it can cause in the consumers of contaminated beef is likely invariably fatal. Because cooking temperatures do not adequately destroy prions, the onus of responsibility must rest with the beef industry or, if unable or unwilling to police itself, the federal government, to ensure infected cattle are not slaughtered for human consumption. There is evidence that the infectious proteins that cause BSE can survive incineration⁷⁵ at temperatures hot enough to melt lead.⁷⁶ In response to a question from Cornell University's Food Science Department asking what food preparation methods could eliminate the risk of contracting BSE, then National Institutes of Health Laboratory of Central Nervous System Studies chief Joseph Gibbs remarked tongue-in-cheek that one of the only ways to ensure a BSE-free burger would be to marinate it in a concentrated alkali such as Drain-O-Mat.⁷⁷

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Mr. KUCINICH. Dr. McGlone.

STATEMENT OF JOHN J. McGLONE

Mr. McGLONE. Thank you. I appreciate the opportunity to provide testimony in this important matter today.

There is quite a lot of interesting discussion today. I would like to try and focus the summary of my testimony on science-based solutions to the problems, rather than identifying the problems. I think we know that they exist.

People are uniformly concerned about bad actors that have damaged the industry and damaged animals. We know that this incident is of national importance. I have noticed considerable improvement in animal handling in recent years, which I agree with Temple Grandin on that point. But we are dealing with a biological process here, and a biological process is imperfect, and the question is to what degree of acceptable imperfection is allowable. And we can reach a few conclusions about the current situation.

The first is that the current system of oversight is not sufficient to prevent rare events from happening. So even if less than 1 percent of the animals, less than 0.1 percent of the animals have a problem, whatever that is, noncompliance, that is not acceptable. And the current level of oversight doesn't prevent that. It is not intense enough.

Given even if we had 100 percent oversight by human—a human being at a single observation point, that human would still experience observer fatigue, would develop a callousness over time, and there wouldn't be any checks and balances in place. So even 100 percent oversight wouldn't solve the problem.

I think we all agree that persons found guilty of cruelty should be brought to justice. I think that is happening. I think people who observe acts of cruelty and don't report them in a timely manner should also be brought to justice and that we need to restore confidence in the food supply and the humaneness and safety of our food supply.

I want to discuss one parallel enterprise that is going on in the United States, that is, oversight of research animal care, which is a different matter, but for which this same problem happens. At research institutions, at universities and companies, there is a lot of activity that happens with animals, animal research; and because the types of activities are diverse and complicated, there is no effective way of providing outside audits of that process.

So what has developed is a process of intense internal audit that we call an Animal Care and Use Committee. And to make sure that the Animal Care and Use Committee is doing its job appropriately there is a third-party, a nongovernmental agency called AAALAC International, that will accredit the university. And what that accreditation does by a third party is assure that the internal processes are being taken care of. At the same time, USDA provides oversight, but they only go to research laboratories in some cases once a year to do the same thing that the accreditation body is doing.

So it is a three-pronged approach: intensive internal audits, third-party oversight, and some government interaction. So whatever a successful outcome might be, it should develop a practical

working relationship among the partners. It should be science-based. It should include a philosophy that includes acceptance of animal production consumption. It should agree to trust but verification of these behaviors; agreement that the goal is to prevent problems, not to be punitive, although punitive measures are necessary; agreement that when problems arise that they be brought to rapid resolution, not to where it takes weeks to discover that the problem actually took place. There has to be confidentiality of business practices, secure control of electronic data.

And I think what would really drive this process would be an agreement that plant operations would not stop as long as these issues are resolved in a matter of minutes, rather than hours or weeks or, in some cases, even longer.

I was also asked what the industry perspective was. Because I can ask questions, being an independent source of information. And I gathered the following observations.

One is, the industry expressed uniform repulsion at the idea—at the events in California. People readily admit within the industry that the system in place now does not work very well because we have a very low error rate, way less than 1 percent, and it is difficult to detect that error rate under the system that we have.

USDA plants often develop an adversarial rather than a collaborative approach with humane oversight, and that is a problem. A punishment does not foster collaboration. I think it is necessary, but it really doesn't help the groups to collaborate. Laws do not protect plants from infiltrators who directly cause welfare problems in order to gain donations or public attention to their cause. Video surveillance specifically was first viewed negatively, but now we know that several meat companies are using them internally.

I heard a strong sense from the industry, and I believe it works in other aspects of our society, that if the industry would take an extremely strong stance in policing itself, less outside oversight would be necessary.

There is also a sense that the industry does not want the routine practices in the slaughter plant made available to the general public for, I think, obvious reasons. But yet they want to be held accountable themselves, and they want the government to be held accountable also for their actions and activities.

Some industry groups have already installed video, and they did that to perform more effective internal audits, to provide proof of humane handling, and to keep the government out of their business, because they think they can do a better job themselves, and to provide an instant replay when there are questions that may arise.

Hallmark's early response to its humane issue was to install animal handling cameras, which I think speaks to the resolution of the issue or a resolution.

And I think that we really need a third-party partner that is an NGO, a nongovernmental agency that is respected and that shares the goals of the industry. And American Humane might be that organization. We would like to have professionally trained auditors using science-based approaches, intensive audits that have a zero tolerance for abuse and a rapid resolution of problems.

With that, I thank you for being here.

Mr. KUCINICH. Thank you, Dr. McGlone.
[The prepared statement of Mr. McGlone follows:]

Testimony

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Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, April 17, 2008
1:00 P.M.

"After the Beef Recall: Exploring Greater Transparency in the Meat Industry"

Introduction

I appreciate the opportunity to provide testimony today on this important matter. The recent incident in California has brought animal welfare and food safety to the forefront of discussions inside and outside the US meat industry. Animal producers, meat processors, and the entire food chain are anxious about potential outcomes after the egregious acts of animal cruelty were brought to light in California. People I have spoken with have been uniformly concerned that a few bad actors have damaged the image of the animal industries. Indeed, the recent cattle incident has spilled across state lines and over multiple species. Animal producers, processors and the USDA are on high alert at this time.

I have observed the animal industries for several decades. Like many of my colleagues, I have noticed considerable improvements in animal handling on farms, during handling, transportation and final harvest. Still, meat production is a biologic process and it is imperfect. The degree of acceptable imperfection is an important topic of discussion.

The recent events and the current state of affairs of meat industry oversight cause me to reach the following conclusions.

1. The current system of oversight is not sufficient to prevent rare events that significantly compromise animal welfare and food safety; the current system reduces but far from eliminates risk of animal welfare or food safety issues

¹ John McGlone has been on the faculty of the Animal and Food Sciences Department at Texas Tech University for over 23 years. After completing his PhD at the University of Illinois, he has taught animal physiology and behavior and studies the scientific basis of animal welfare. In his capacity as Institutional Official at Texas Tech University, he oversees the animal care and use program on campus. He is a Fellow with American Humane, is on the Board of Trustees of the Association for the Assessment and Accreditation of Laboratory Animal Care International and serves as the co-chair of the Federal of Animal Science Societies revision of the Guide for the Care and Use of Agricultural Animals in Teaching and Research. He consults with animal production, processing and food companies on issues of sustainable livestock production and animal welfare. He started a company to provide science-based audits of farm animal welfare (FACTA, LLC). Graduate students he has mentored have gone on to hold key faculty positions at leading universities.

2. A single person from a single federal agency observing animals and people (at a given site) less than 100% of the time is not sufficient to prevent a human-induced error (or even crime)
3. Even if one gained 100% oversight by a single agency, people would still experience observer fatigue and potential callousness, and no check and balance would be in place
4. Persons found guilty of cruelty should be brought to justice
5. Persons seeing acts of cruelty and not reporting such acts should be brought to justice as well
6. Things must change to enhance oversight and restore confidence in humane handling and the safety of our food supply

Potential Transparent Solutions

Other models of animal care oversight are in place among other industries. Certain animals used in teaching and research fall under the purview of Animal Welfare Act, Public Health Service Guidelines, and various other Guidelines. The multitude of species and types of research and teaching make oversight of animals used in research and teaching difficult. One solution that has gained success is to provide independent third-party accreditation of animal care. The Association for the Assessment and Accreditation of Laboratory Animal Care International (AAALAC International) is recognized by the Public Health Service as an objective, third party that, through site visits and peer review, provides science-based oversight of internal processes. It is the internal processes on campuses and in research companies that actually provide the most effective oversight. The USDA provides legal and regulatory oversight while a third party (AAALAC International) assures all of us that the highest standards of animal care are in place. The meat industry could benefit from such double-headed oversight by both the USDA and a non-profit, independent third party such as American Humane. Such a collaborating third party would have to share the ultimate objective of using animal products and would have to be science-based.

Elements of a potentially successful collaboration between government (ex., USDA), a non-profit humane organization (ex., American Humane) and the meat industry would have to include:

- Development of a practical, working, relationship
- A science-based approach using stout sampling statistics aimed at detecting rare events of non-compliance
- A philosophy that includes:
 - Acceptance of animal product consumption
 - Agreement to trust, but verify
 - Agreement that the goal is to prevent problems
 - Agreement that when problems arise, they be brought to rapid resolution
- Confidentiality of business practices
- Secure control of electronic data, including video images

- An agreement that plant operations would not stop as long as good faith efforts are underway to rapidly resolve animal welfare issues

Application of video surveillance in meat processing and slaughter plants American Humane², the USDA, and others have proposed video surveillance of meat processing plants in federally-inspected (and perhaps other) plants. Under one scheme, a central location would receive multiple video streams of data from remote plants. At this location, or another location, representatives of American Humane (for example) and USDA would review the data stream for non-compliance. Auditors certified by PAACO (www.animalauditor.org) would be present on site; but to reduce cost, only supervisory personnel would need to be PAACO certified. Issues that arise would be promptly brought to the attention of management at the plants and issues will be brought to rapid resolution. As long as the plants take rapid, effective action, USDA would not take punitive measures.

The technology is currently available to provide this level of oversight. Others can speak to the details of the technology cost. Furthermore, if automated data collection identifies non-compliance issues, then some of the human elements of fatigue and callousness would be removed.

From my perspective, if the measures of animal welfare are science-based, and if the sampling of human-animal interactions is at a high rate, and if a triad of industry-NGO-USDA provides oversight and confidential transparency, and with the industry taking the strongest stance to police itself, then we would have as high a level of oversight as is possible. Over time, science will improve our understanding of auditable points and we will be at the desired state of continuously improving farm animal welfare.

Attitude of the Meat Industry to video surveillance

The committee asked about the attitude of the Meat industry about the idea of video surveillance. I have spoken directly to key industry leaders and I have heard the following from more than one source:

- The industry expressed uniform repulsion about the inhumane events in California
- People readily admit that the system now in place does not work well because:
 - A low error rate (ex., 1%) is too high; that is, if 1% of the animals have a negative experience, this is an unacceptable rate

² American Humane is a non-profit, non-governmental organization with a long history of concern for the welfare of animals and children. Formed in 1877, American Humane has a history of collaboration with industry to improve animal welfare, including at slaughter. American Humane has a 131 year legacy of animal welfare, advocating reasonable practices related to animal transportation, slaughter practices, and they were an important supporter of the original Humane Methods of Slaughter Act. Today, AHA is lending its support to find science-based, practical solutions. AHA has been a partner with producers, the government, and industry to find viable, feasible solutions to problems.

- USDA and plants develop an adversarial rather than collaborative approach at some plants; this can cause new animal welfare problems (ex., when USDA shuts the plant down, animals in the flow to slaughter are left in a precarious situation and trucks in the yard back up which can cause serious issues during warm weather)
 - USDA's only real authority is to "shut the plant down" – punishment does not foster collaboration
 - Laws do not protect plants from infiltrators who directly cause welfare problems, then blame the plant
- Video surveillance was at first viewed negatively, but we have learned that several meat industry companies already use video surveillance for internal animal welfare (and other) audits; and now their view is less negative (and in some cases positive) towards third-party video audits of animal welfare
- I heard a strong sense that the industry would like to police itself and keep the government out of its business, as long as it acts responsibly
- Industry (and I) do not like animal handling and slaughter practices available to the general public who does not have the education and background to understand humane slaughter
- The industry and I agree that the government must be held accountable for their decisions which impact both economics and animal welfare (positively or negatively)
- Some industry groups have already installed video monitoring of animal handling for the following reasons:
 - To be able to perform more effective internal audits of welfare
 - To provide proof of humane handling
 - To keep the government out of their business so they can more effectively solve problems
 - To provide 'instant replay' when USDA oversight is either inadequate or overreacting to events
- Hallmark's early response to its humane issue was to install video monitoring in cooperation with a commercial company (Arrowsight) and others
- American Humane has consistently been a collaborative NGO that seeks genuine improvements in farm animal welfare;
- The industry is reaching out to reasonable NGOs, especially American Humane -- a sincere and collaborative humane organization

In conclusion, something must be done to restore consumer confidence through greater confidential transparency and oversight. Video surveillance has the potential to be a reasonably inexpensive way of providing the technical aspects of oversight. For the human aspects of oversight, the best approach in my view would be a healthy collaboration between an NGO such as American

John J. McGlone Testimony
April 17, 2008

5

Humane, professionally trained and certified auditors using a science-based approach, USDA and industry with the goal of zero tolerance for animal abuse and continuous improvement in animal welfare.

Mr. KUCINICH. Mr. Aronson, you may proceed.

STATEMENT OF ADAM ARONSON

Mr. ARONSON. All right. We are going to put an overhead projector on.

Mr. KUCINICH. Staff prepared with that? OK.

Mr. ARONSON. Thank you, Mr. Chairman.

Mr. Chairman, it is an honor and privilege to appear before you today.

I am Adam Aronson, founder and chief executive officer of Arrowsight. Arrowsight has been providing remote video auditing services for the past 10 years to many industries, including food manufacturing, healthcare, and quick service restaurants. Remote video auditing of employee practices, combined with continuous performance feedback, can drive rapid and sustained improvements to business operations.

To foster a healthy staff culture, we work with clients to promote positive reinforcement techniques that are centered around catching employees doing the right things instead of catching them doing the wrong things. Used proactively by customers, video auditing services can emulate having the best front-line manager present at all times throughout a facility.

For companies not willing to thoroughly embrace a video services program, an alternative but less optimal solution would be to increase the number of front-line managers in high-risk areas such as animal handle pens.

In the case of the meat industry, we have successfully provided animal handling services for FPL Foods LLC, a cattle processing company located in Augusta, Georgia.

I will be using a visual demonstration to describe Arrowsight's video auditing services. At the top of the work flow diagram on the screen are two 24-7 network operation centers that are staffed by trained Arrowsight video auditors. Through a secure Internet connection, our auditors randomly sample events throughout the day that are each 1 to 2 minutes in duration. As Arrowsight auditors classify process compliance either numerically or qualitatively, the data is automatically stored in Arrowsight's central data base. We provide continuous performance feedback in two ways, which is shown on the right-hand side of the diagram.

If a customer-defined noncompliance event is observed, we are instructed to call plant supervisors and to send e-mail alerts that also include hyperlinks to the examined video. Additionally, we deliver customizable daily and weekly performance reports that include hyperlinks to all examined video events.

Please change the slide.

We use the American Meat Institute's recommended animal handling guidelines as a model. We audit for proper live handling from the truck unloading area all the way through to the work stations inside the plant where the cattle are slaughtered.

On the left-hand side of this image are the operational classifications for the truck unloading area, which define the various categories of staff noncompliance. As a standard operating procedure, we alert plant supervisors anytime a handling infraction is observed.

Please change the slide.

After the recent recall, we received many inquiries about our animal handling services. In response to these requests, we have recently implemented video auditing features with the ability to comprehensively identify high-risk nonambulatory animals. By sampling still pictures every 30 minutes on a 24-7 basis, we are able to cost-effectively identify most nonambulatory animals and immediately notify plant supervisors. This new service is especially beneficial on third shifts inside plants that have overnight livestock delivery, which are typically overseen by a small group of employees with little or no managerial oversight.

Please change the slide.

Daily and weekly electronic scorecard reports are generated and e-mailed to clients, which segregate performance scores into several categories. The top two sections of the report summarize a score by plant and by area. The lower two sections show the specific work station scores and provide hyperlinks to all the examined video.

Please change the slide.

Given the low profit margins in the meat industry, Arrowsight focuses much of its effort on providing financially beneficial services to its clients. Utilizing Pan-Tilt-Zoom cameras with up to 64 preset positions, we have been able to drive significant savings to a large turkey processing company.

As seen on this screen in the lower-left-hand image, the worker is supposed to carefully trim the edges of the turkey breast but instead has cut too deeply into the piece of meat. In this case, the trimmed portion of the meat will become ground turkey, which is worth only 35 to 45 percent of the value of the breast meat. Through the proactive use of our services, this customer has achieved roughly \$1.25 million in savings from this one application.

In closing, remote video auditing services benefit progressive meat companies by being able to combine safety, security, and welfare programs with a suite of process optimization services.

Thank you for the opportunity to testify today, and I will be pleased to answer any of your questions.

Mr. KUCINICH. Thank you, Mr. Aronson, for your testimony.

[The prepared statement of Mr. Aronson follows:]

**Testimony
Of
Adam B. Aronson,
Chief Executive Officer
Arrowsight, Incorporated**

**Domestic Policy Subcommittee
Oversight and Government Reform Committee
“After the Beef Recall: Exploring Greater Transparency in the Meat Industry”
Thursday, April 17, 2008
2154 Rayburn HOB
1:00 P.M.**

Good Afternoon, Chairman Kucinich and Ranking Member Issa, and Members of the Subcommittee, I thank you for the opportunity to testify before you today regarding the recent large meat recall. I am the founder and CEO of Arrowsight, Inc. (Arrowsight), a third party remote video auditing and technology company founded in 1998 to provide business process improvement services primarily to the food manufacturing, healthcare and food services sectors. Remote video auditing services consist of random live and retroactive sampling of one to two minute video examinations of individual worker activity combined with continuous statistics-based performance feedback. We have found that by combining random sampling with continuous performance feedback, there can be rapid and sustained impact on staff performance. Implemented effectively, clients can achieve a combination of strong financial gains, and increased control over high risk processes such as animal handling and food safety practices.

The recent meat recall has highlighted a subset of our services which focuses on animal handling solutions in the meat industry. For the last two and one-half years, Arrowsight has provided such services to FPL Foods LLC (FPL), a regional cattle processing company located in Augusta, Georgia. This client engaged Arrowsight to augment its existing animal handling plan that had been managed by an experienced management team and also was overseen by a team of USDA inspectors. During the time period in which Arrowsight services have been provided, FPL has achieved consistently high remote video audit performance scores for its animal handling practices and procedures.

FPL elected to have Arrowsight monitor its animal handling practices to ensure that employees follow the protocols of the American Meat Institute's (AMI) Recommended Animal Handling Guidelines. The AMI Guidelines were designed with assistance from Dr. Temple Grandin, a highly regarded expert on animal behavior sciences, who has also been an Arrowsight consultant since 2004. These guidelines prescribe numerical based auditing of five different plant areas to ensure proper handling and proper slaughter practices. According to the AMI guidelines, the five areas under observation include the truck unloading pen, the crowd pen, the chute, the knock box, and the shackles. For a full description of the AMI Recommended Animal Handling Guidelines, please visit www.animalhandling.org. Below is an example of how we perform an audit for the truck unloading area in accordance with these guidelines.

YOUR - Animal Welfare

PDF S/I C/A PDF T/S C/A Unloading Date: 2/20/2008

☐ Not audited

☒ Pass

☐ Fail - Animal Welfare Non-Compliance
[Enter video time and email plant manager; Email Mgm:]
(email):

☐ Unknown

☐ No video

0	-	+/-	Count - Believing [Dial in and listen while watching 10 cows; fail if 1 or more cows believe. If fail, enter video time.]
0	-	+/-	Count - Cow falling down [View 10 cows; fail if 1 or more cows trip and kneel or body hit the floor. If fail, enter video time. Email Mgm.]
0	-	+/-	Count - Electric prod use [View 10 cows; fail if electric prod used 1 or more times. If fail, enter video time.]
0	-	+/-	Count - Movement non-compliance [view 10 cows; fail if 1 or more cows are dragged or induced to move with anything other than the cattle paddle. If fail, enter video time.]
10	-	+/-	Count - Number of cows observed. [Enter total number of counts viewed.]

Enter comments:

Next Step |

Arrowsight Extension of the AMI Guidelines

While Arrowsight follows the general animal handling protocols of AMI, we have extended the base protocols:

1. Rather than observing 100 cattle at each of the prescribed areas in one single session, we break the 100 head of cattle into groups of ten to twenty cattle that are randomly audited on a live basis throughout the entire shift.
2. We have been instructed by FPL to alert plant management immediately if we observe any animal handling breach. This random sampling technique, combined with continuous statistics-based performance feedback is the foundation from which our clients are able to improve and sustain business process performance.
3. After the recent recall, we have received many inquiries about our animal handling services. One critical area that our existing program did not address is to comprehensively identify completely non-ambulatory animals, which represent the highest food safety risk. Utilizing an existing Arrowsight video auditing feature, we have begun providing a solution for this challenge. By sampling still pictures every 30 minutes on a twenty-four hours a day basis, we are able to easily identify the majority of non-ambulatory animals and alert plant supervisors who can correct any improper handling compliance breaches for these rare instances. This new service is especially beneficial on the overnight shifts when cattle are unloaded and being managed by a smaller group of employees with much less managerial oversight. Below is an example of how this application works:



THE SERVICES

- Utilizing its proprietary Application Service Provider IT platform, Arrowsight can remotely access via the Internet Pan-Tilt-Zoom cameras located in monitored facilities; each camera can provide up to 64 different pre-set camera views.
- Video audits/tours are performed at Arrowsight's twenty-four hours a day, seven days a week Network Operations Centers in Huntsville, Alabama and at a partner's firm in Viskhapatnam, India.
- Remote Video Auditing services consist of random live and retroactive (where machine alarm events are typically used as triggers) sampling of one to two minute video audits of individual workers or specific plant area activity.
- Every video examination is scored Rating 1 or Rating 2 (i.e. the equivalent of compliance or non-compliance) and in many applications, assigned a numerical rating. Individual worker identifications can be included at the customer's request. Each video examination is configured with rules-based software tools that allow for audits/tours to be automatically presented into web based operator queues for Arrowsight auditors to perform their monitoring tasks.
- As the remote video audits are performed, all worker compliance data is automatically stored in Arrowsight's central database. It can be accessed to create a wide range of customizable compliance scorecard reports generated for facility managers and executives (the data can also automatically interface with customer Enterprise Resource Planning (ERP) reports).

- These electronic scorecard reports allow executive stakeholders to monitor individual line/shift manager and worker performance methodically and continuously in a way that has never previously been possible. These electronic reports also include hyperlinks to all examined video events.
- Additionally, Arrowsight provides in-depth consulting services to identify and drive process improvements using a team of food and general manufacturing specialists. This team is lead by Mark Moshier, who spent many years as a senior executive in engineering and operations at Tyson Foods and Keystone Foods.

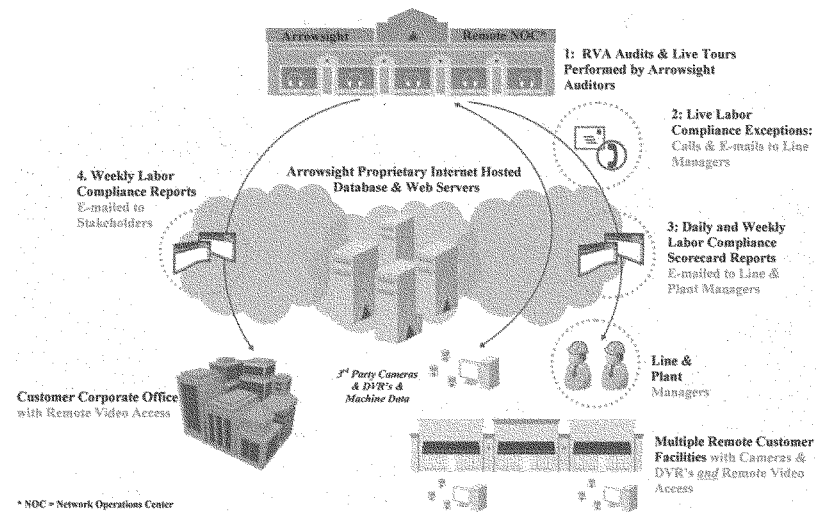
THE TECHNOLOGY

Arrowsight's central server based platform is designed to take data outputs of standard third-party digital video recorders and cameras, to send such data over the Internet and to assemble and organize such data in various ways. Additionally, Arrowsight's open architecture integrates easily with most existing client enterprise software. The Arrowsight remote video auditing technology platform allows for multiple parties to fully operate all essential Network Operating Center (NOC) administrative and video auditing feature applications.

Key Features Include:

- Administrative tools that enable customers to control remote user's access to locations, cameras, and features.
- Pan-Tilt-Zoom cameras that can be used for up to 64 different continuous live tours per camera.
- Audit/Tour set-up tools that allow for rules-based video applications that link to a comprehensive reporting platform.
- Reporting tools that allow for quality assurance checklist and edit capabilities, as well as electronic scorecard reports that include statistical summaries and hyperlinks to all examined video events.
- Back-end administrative technical support tools that allow for remote diagnostics and upgrades of new features.
- Open architecture that allows for integration of third-party hardware or software.

REMOTE VIDEO SERVICES WORKFLOW DIAGRAM



Sample Remote Video Audit Report

[illegible]

THE BUSINESS PRODUCT

Four Main Services	Description
1. Remote Video Auditing	Electronic Scorecard Reports from rules-based video examinations of historical events using existing processes or 3 rd party data triggers
2. Live Video Tours	Electronic Scorecard Reports from rules-based live video examinations that include live alerts to customer line managers
3. Video Alarm Verification	Live email video alerts and Electronic Scorecard Reports integrated with GE's top alarm monitoring software platform
4. Self-Service Video	Administrative and video monitoring tools that enable customers to remotely view and manage video

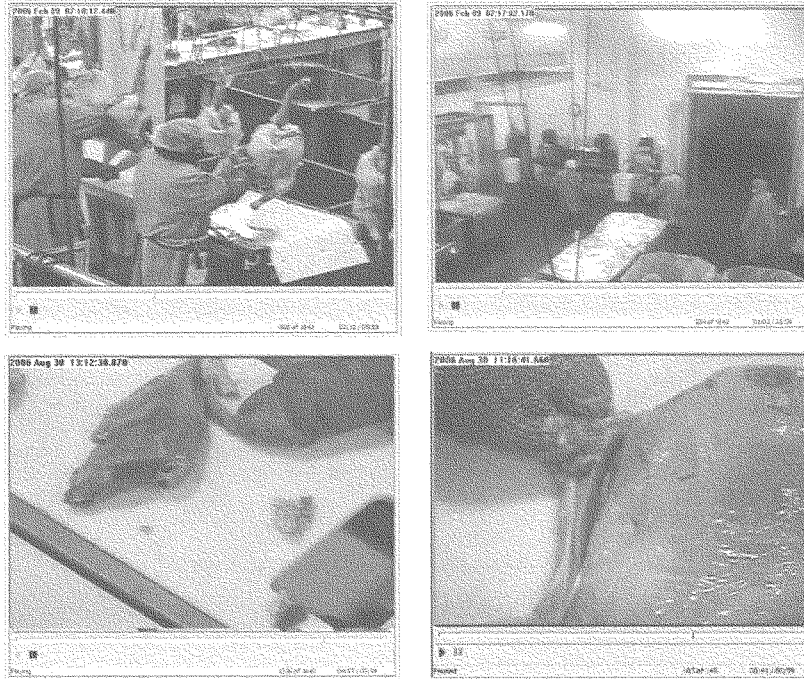
CUSTOMER EXAMPLES

Arrowsight has borrowed time-tested coaching methods from professional sports and leveraged the basic principals of game film analytics to deliver significant return on investment results to its business customers through driving operational process optimization with remote video auditing services.

- **Food Manufacturing:** Arrowsight has delivered roughly \$1.25 million in annualized net savings to a large turkey processing plant. The page below depicts these savings that were gained by improving the yield rates on a turkey breast trimming process.
- **Quick Service Restaurants:** Arrowsight has improved customer service times by about twenty-five percent in a chain of twelve quick service restaurants owned by a highly regarded national operator. The initial stores have experienced significant sales growth, as well as decreases in both labor and food costs, leading to a four-fold return on investment.
- **Healthcare:** In an ambulatory surgery center in Georgia, Arrowsight has improved baseline hand hygiene compliance rates from 38% to over 90% in fewer than five weeks and has sustained these high rates for over twelve months. Based on this success, Arrowsight has begun providing its hand hygiene services to a large US hospital system. This client has also expressed interest in a broader range of patient safety solutions offered by Arrowsight, including Intensive Care Unit and Operating Room critical care services.

EXAMPLE OF LABOR PERFORMANCE IMPROVEMENT

- Given the low margin nature of the meat industry, Arrowsight has focused its sales efforts primarily on financially beneficial operational process improvements inside the plants. The example below demonstrates recent advances in digital video technology. These four video images are pre-programmed camera pre-set views from a single Pan-Tilt-Zoom camera. These cameras can each have up to 64 pre-set camera view positions, which enable observation of many work stations with a relatively small number of cameras.



- In the lower left hand corner video image above, the worker is supposed to be carefully trimming the edges of this turkey breast, but instead has trimmed too deeply into the piece of meat. This worker's actions are costly to his firm because the trim portion of the meat will become ground turkey which is worth only 35-45% of the value of the breast meat.
- Annualized return on investment of roughly \$1.25 million for this one discreet business process was realized through rapid, steep and sustained improvements by the lowest performing workers.

CONSIDERATIONS FOR IMPLEMENTING VIDEO SERVICES PROGRAMS

In the ten years we have provided video services, we can point to several important implementation techniques that result in customer successes. The first is working with management to produce a positive reinforcement approach. By openly recognizing top performing workers instead of focusing only on the poor performers, staff morale is enhanced rather than deflated. We have statistically observed that overall poor performance scores for specific processes are usually caused by a minority of workers. It is very rare in any work environment that a strong performer will report a weak performer to their manager, as it can cause untenable friction amongst the workers. By having continuous performance feedback focused on positive reinforcement, the weakest performers tend to have rapid and sustained improvements, which enhance overall morale and productivity.

Another important technique we implement is to direct most of the performance feedback on and to front line management. This approach is valuable because the performance level of individual workers and the rapidity and sustainability of corrective action will be greatly enhanced by improving the information flow to these frontline supervisors. This methodology also dramatically reduces the number of individual workers that need to be directly contacted by Arrowsight or by client senior management.

The combination of random sampling and continuous feedback has been very effective in improving results for clients with engaged and committed management. Used proactively and positively by customers, the video auditing services can emulate having the best shift manager present at all work stations, on all shifts.

We believe that without sampling, performance feedback and management support, most video programs will fail to adjust employee behavior and allow poor practices and habits to persist. The reason we believe this is that in providing our video services, we consistently observe sub par performance during the baseline data collection period. It is only when performance feedback is initiated, that there are sharp increases in compliance rates. The critical consideration for any prospective client is that physical video systems alone do not generally improve and sustain staff performance and that continuous employee feedback is the only true means to achieving enhanced results. For clients who are not willing to thoroughly engage with a video services program, an alternative, but less optimal option would be to increase the number of front line managers in high risk areas such as animal handling pens.

ADDITIONAL HIGH RISK AREAS: FOOD SECURITY AND HEALTHCARE

While food safety is the highest priority for both suppliers and regulators, we believe that there is already a very substantial degree of plant quality assurance and USDA management and that there are additional high risk areas that do not have the same level of plant or regulatory oversight. For example, we believe there are opportunities to improve internal plant security with a bio-security program we have designed called Hot Zones. This program focuses on identifying high risk storage areas that store raw and finished materials, where a single deliberate act of contamination by a rogue or disgruntled employee could cause widespread sickness or death. By installing bio-metric palm readers at the entry ways of all high risk areas, a smaller subset of workers could be screened for higher clearance access to these storage areas. An overlay of video services would enable management to be alerted anytime that an unauthorized employee entered the storage area. Proper implementation of a bio-security program would provide an extra measure of internal plant security to help mitigate the risks of adverse events.

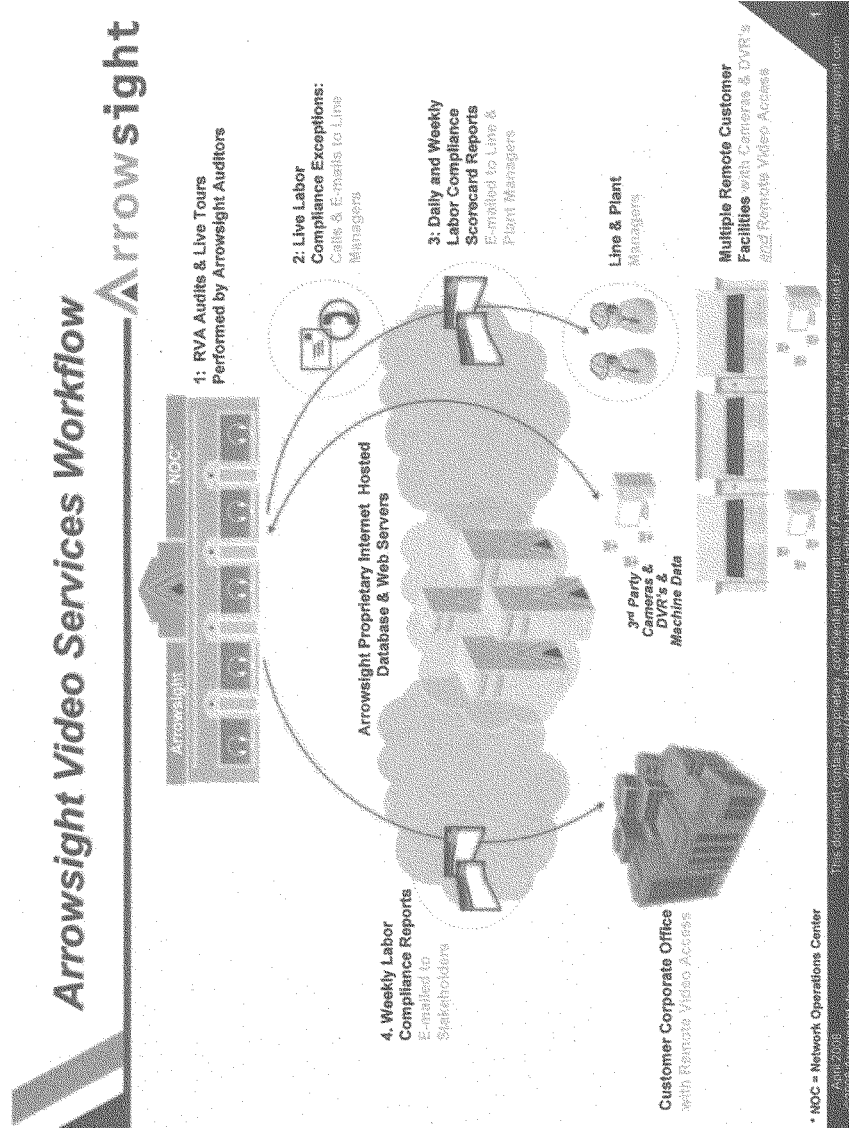
In healthcare, we have focused our attention on improving hand hygiene compliance and other critical care applications. The US healthcare system has a significant problem with hospital acquired infections (HAI). This results in two to three million patients per year being affected by HAI. Tragically, approximately 90,000 patients per year die from HAI and other preventable medical errors. Despite the implementation of protocols to improve hand hygiene in hospitals throughout the country, compliance by health professionals is poor and rates of HAI continue to remain elevated. The conventional methods simply do not provide process data necessary to measure rates of compliance with the protocols and to understand where and why protocols fail. Other data collection efforts have not been sustainable. Similar to the food security risks outlined above, the proper implementation of a carefully planned and executed video monitoring program has the potential to drive a reduction in patient injuries and HAI.

CONCLUSION

Since the recent meat recall, Arrowsight has been approached by many large and medium size companies to learn more about our animal handling programs. An industry-wide movement to improve practices in this area appears to be under way. In all of our meetings with prospective clients, we have also been requested to profile facilities for process optimization applications that will drive financial savings. In most cases, these savings will more than cover the costs of the animal handling services. Most sectors of the food production industry are low margin businesses that have been adversely affected by the recent sharp increases in fuel and grain prices. These difficult market conditions have made it important for us to incorporate animal handling applications into a comprehensive solution that can also generate strong financial returns through improved plant operations.

In closing, we appreciate the opportunity to testify before you today. As a company, we are honored to be in a position to serve the nation's meat suppliers with a range of Arrowsight Remote Video Auditing solutions that can combine safety, welfare, and security solutions, with financial gains achieved by improving plant operations.

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[illegible]



Sample Video Audit Report:

Performance Metrics & Links to Examined Video

Arrowsight

Arrowsight
FOOD & BEVERAGE

ANIMAL WELFARE VIDEO

AUDIT REPORT VIEWS

Audit results are generated on the basis of the video content reviewed. The results are not a guarantee of the quality of the video content. The results are a reflection of the video content reviewed.

Top five items of concern for each producer plant, summary of video content, and most concerning plant.

Category: **Animal Welfare**
Summary of video content, and most concerning plant.

Results of video audit, and most concerning plant.

Results of video audit, and most concerning plant.

Plant	Category	Compliance	Current Period Compliance	Previous Period Compliance	Average Compliance
Plant 1	Animal Welfare	95%	95%	95%	95%
Plant 2	Animal Welfare	85%	85%	85%	85%
Plant 3	Animal Welfare	75%	75%	75%	75%
Plant 4	Animal Welfare	65%	65%	65%	65%
Plant 5	Animal Welfare	55%	55%	55%	55%
Plant 6	Animal Welfare	45%	45%	45%	45%
Plant 7	Animal Welfare	35%	35%	35%	35%
Plant 8	Animal Welfare	25%	25%	25%	25%
Plant 9	Animal Welfare	15%	15%	15%	15%
Plant 10	Animal Welfare	5%	5%	5%	5%
Plant 11	Animal Welfare	0%	0%	0%	0%
Plant 12	Animal Welfare	0%	0%	0%	0%
Plant 13	Animal Welfare	0%	0%	0%	0%
Plant 14	Animal Welfare	0%	0%	0%	0%
Plant 15	Animal Welfare	0%	0%	0%	0%
Plant 16	Animal Welfare	0%	0%	0%	0%
Plant 17	Animal Welfare	0%	0%	0%	0%
Plant 18	Animal Welfare	0%	0%	0%	0%
Plant 19	Animal Welfare	0%	0%	0%	0%
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Plant 22	Animal Welfare	0%	0%	0%	0%
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Plant 29	Animal Welfare	0%	0%	0%	0%
Plant 30	Animal Welfare	0%	0%	0%	0%
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Plant 39	Animal Welfare	0%	0%	0%	0%
Plant 40	Animal Welfare	0%	0%	0%	0%
Plant 41	Animal Welfare	0%	0%	0%	0%
Plant 42	Animal Welfare	0%	0%	0%	0%
Plant 43	Animal Welfare	0%	0%	0%	0%
Plant 44	Animal Welfare	0%	0%	0%	0%
Plant 45	Animal Welfare	0%	0%	0%	0%
Plant 46	Animal Welfare	0%	0%	0%	0%
Plant 47	Animal Welfare	0%	0%	0%	0%
Plant 48	Animal Welfare	0%	0%	0%	0%
Plant 49	Animal Welfare	0%	0%	0%	0%
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Plant 51	Animal Welfare	0%	0%	0%	0%
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Plant 69	Animal Welfare	0%	0%	0%	0%
Plant 70	Animal Welfare	0%	0%	0%	0%
Plant 71	Animal Welfare	0%	0%	0%	0%
Plant 72	Animal Welfare	0%	0%	0%	0%
Plant 73	Animal Welfare	0%	0%	0%	0%
Plant 74	Animal Welfare	0%	0%	0%	0%
Plant 75	Animal Welfare	0%			

Pan Tilt Zoom (PTZ) Camera Feature: **64 Pre-set Views Per PTZ Camera**

Arrowsight



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Mr. KUCINICH. We are going to go to questions of the witnesses. I would like to start with Mr. McGlone—Dr. McGlone.

Dr. McGlone, you mentioned that some companies have already installed video monitoring systems. I understand one of these companies is Springer Mountain Farms.

Mr. MCGLONE. Yes.

Mr. KUCINICH. And they are considered a large harvesting plant?

Mr. MCGLONE. Yes.

Mr. KUCINICH. Can you tell us more about Springer Mountain Farms and speak to the effects they have experienced because of this increased transparency?

Mr. MCGLONE. Yes. They are a company that sells a certified—American Humane-certified product. It is an alternative to conventional chicken. It is chicken that has a higher standard of animal welfare based on science-based standards, more space, for example; and at the processing plant they conduct an animal welfare audit.

Now I will point out that poultry are excluded from, as was mentioned, from the Humane Slaughter Act. But they were feeling like—this is some time ago—that they weren't getting reliable data by having audits infrequently. Some plants audit for welfare once a day. Some do it once a week. But if you institute tight controls you may audit more often than that, perhaps continuously, or once an hour, continuously in the case of this new technology.

So what it allowed them to do, and they did it purely for their own internal quality control, not because of outside groups that wanted it, they wanted to achieve a high standard of humane care, and they did that by policing themselves. I think that is a nice model, that once it is examined by outside parties they have some degree of comfort that—

Mr. KUCINICH. What about your customers' experience and response to the video surveillance service that you have been involved with?

Mr. MCGLONE. Well, they are very positive about it. Is that what you mean?

Mr. KUCINICH. Yeah.

Mr. MCGLONE. Sure. Yeah. They think it is—in the case of Springer Mountain, of course, they are pleased with it. But not just them. I need to point out—and not just beef but in pork plants, too, people have installed video monitoring, video surveillance of their activities for reasons that I give in my testimony. And they found that—as I said, they were resistant to it in the beginning. But once they started, they find it a useful tool to achieve a high standard of humane care.

Mr. KUCINICH. I want to ask a question about the technology. I understand there is the potential application of so-called fuzzy logic technology within the industry to improve humane animal handling and food safety. Can you tell us a little bit about how that technology works and if it addresses numerous concerns about the shortcomings of video surveillance?

Mr. MCGLONE. Yeah. It doesn't solve all of the concerns. Now it works—it is easily described in this way. If a person is supposed to do a certain behavior, A, and they consistently do that behavior, then there is no noncompliance that arise in the software. But as

soon as they do something different, then the software is alerted, the management is alerted, and it can be resolved quickly.

But there are some things that happen that are unpredictable, because we are talking about humans and animals, and they are unpredictable. So, in addition to that, you need some kind of human oversight to account for unpredictable events. Over time, the software gets better. As more noncompliant events happen, the software can be refined to improve detection of noncompliance. But all along the way you still need a human element in there.

Mr. KUCINICH. Let me—I want to go over something that you said a moment ago—at least I think you said—that there are no laws that would prevent the infiltration of plants by people with ulterior motives—

Mr. MCGLONE. Yes.

Mr. KUCINICH [continuing]. Such as raising donations, raising money.

Mr. MCGLONE. Yes.

Mr. KUCINICH. Did I hear you say that?

Mr. MCGLONE. Yes.

Mr. KUCINICH. Do you have a comment on that, Mr. Pacelle?

Mr. PACELLE. I don't really know what Dr. McGlone is referring to, to be quite honest. Is there a circumstance that you are referring to?

Mr. MCGLONE. Well, you know, in discussions with industry, they—well, I will take the Hallmark case specifically. And maybe—

Mr. KUCINICH. Are you saying people were just doing that to raise money for their cause?

Mr. MCGLONE. Right. To put—well, in some cases—let's just take the Hallmark case. Why did it take so long to report the incident? How would a person be able to collect hours of video showing negative behavior when the very first occurrence should have brought down the government and the plant manager and everybody should have—you know, the situation should have been resolved the first day, not after several weeks.

Mr. KUCINICH. Mr. Pacelle, would you like to respond to that?

Mr. PACELLE. Well, first, let me just say I am astonished by the comment to begin with. And, second, I think it reflects a lack of understanding about how investigations work. You have an investigator embedded in a plant with a highly sophisticated, very small camera, and he is not able to monitor it every day and review all of it. That is really not the job of the investigator, to make a determination about when you have crossed the threshold in terms of the aggregation of evidence.

Mr. KUCINICH. Why was an investigator sent in there? Was this a fund-raising technique for the Humane Society or did you have some other reason?

Mr. PACELLE. Well, we have a mission of protecting animals; and we are concerned about the well-being of all animals, including those raised for food. And we really insist that animals raised for food be treated humanely during production, transport and slaughter. So we are just focusing our gaze—this plant was selected at random, and it turned up terrible things.

I think it has done an incredible service to the Nation. Even the AMI president said that it has put the industry on notice, and it has modified behavior. I think our investigative unit at HSUS, unlike most other organizations, penetrates dogfights and cockfights and inhumane slaughter practices and puppy mills, and it has an extraordinary record of extraordinary service to the country. And we shouldn't have to do it. We should have government agencies really doing that work.

Mr. KUCINICH. If I may, is that your position, Dr. McGlone, that the government agencies ought to be doing that work?

Mr. MCGLONE. It is my position that the government agency needs—government should be doing it, the industry should be doing it, and there should be some NGO involved to provide the trust factor. Because I don't trust the government, either. I think that is clear. And I don't always trust the industry, even though I work with them. I prefer to work from within to get positive change, rather than from the outside. But I think you need that triad of oversight, internal audits, government, and an NGO to make it fair and reasonable and trustworthy.

Mr. KUCINICH. Mr. Pacelle.

Mr. PACELLE. You know—

Mr. KUCINICH. Let me just followup with a question, and you can include your answer.

On the first panel, Dr. Raymond said that Hallmark represented an aberration in the industry. Now, in your opinion, are the animal handling abuses and food safety issues that were uncovered by your investigation a systemic problem in the slaughterhouse industry or an isolated incident, as the USDA has suggested?

Mr. PACELLE. I think it is really impossible to know how frequent it is, because the third-party auditing system has demonstrated, certainly in this case, not to have picked up on this.

We also—presumably, if USDA had known about these abuses, if the industry had known about these abuses, it would have stopped these abuses. But they didn't. And it took an HSUS undercover investigator to do it.

I did mention in my oral comments that every time an animal protection group has looked into slaughterhouse practices in an undercover way they found terrible abuses. So the Charlotte Observer just had a major series about House of Raeford and a poultry processing plant that not only revealed inhumane treatment of animals but worker abuse and a variety of other things.

I want to address Dr. McGlone's comment about working with the industry. We work with the industry a great deal. We don't get so close to the industry that we lose sight of what our mission is. An inside-outside approach can be—

Mr. KUCINICH. Your mission being?

Mr. PACELLE. Mission to protect animals from needless cruelty.

We work with the industry a great deal. But then sometimes we engage in undercover work to really test and see what goes on. In fact, I think the government should have a SWAT team or a strike force that travels around and occasionally does undercover work at some of the plants to really see what is going on.

Because simply showing up with your USDA, you know, physical presence, they do know what is going on. And we saw at Hallmark,

our investigator has said—and I don't think anyone has disputed it—that they were on their best behavior when the USDA was there. The USDA was there for just a couple of hours a day, and they were abusing the downers before he got there, and they were abusing them after he left, and there was not a continuous presence in the holding pens.

And until we have greater transparency, which I think is really an important function of your hearing, and I am glad that the Arrowsight information has been advanced, that is really going to be the only way that we can have, you know, full-time forensic capabilities in this case.

Mr. KUCINICH. I would like to ask you a followup and then let Mr. McGlone respond, and then we are going to go to Mr. Cummings for some questions.

When this video was released, what was the public's response and—as communicated to the Humane Society? Obviously, you had to have a response from the general public. Do you want to describe it for this committee?

Mr. PACELLE. It certainly was overwhelming, and it has been nearly unanimous. We did hear the comment that folks who are watchdogs or whistle-blowers, we heard on a previous panel that there is retribution or there are attempts to discredit that effort. And we have heard a couple of industry voices criticize us. But the mass, the 98 percent of the public was very supportive.

I don't think I saw any editorials from any major newspapers critical of our work. One hundred and twenty newspapers did editorials addressing this issue and commending the Humane Society and raising questions about the adequacy of current government programs.

Now then, as the Congress has continued to look at it, as the press has continued to look at it, we have seen not only was there a problem with the government system but the third-party auditing process. Again, I emphasize there were 12 third-party audits at this plant, giving it the highest marks in the industry. Something is amiss.

Mr. KUCINICH. Dr. McGlone, you wanted to respond and I'm going to afford you that opportunity.

Mr. MCGLONE. I was just going to add that myself and my students have been asked from time to time to do—I wouldn't call it undercover work—but to examine the welfare of animals at processing plants. And we've been in dozens, maybe hundreds of plants doing that. And we operationally find problems. But most of the time we don't find problems. So I just wanted to get it on record that, you know, we—to say that every time we look we find a problem, we don't find that. And I have looked at literally millions of animals in slaughter plants, and I do find problems. But it is not anything like every time. It is a rare event. And in any kind of process, particularly those that involve biological processes, it is a challenge to find the rare events.

Mr. PACELLE. I think it is a systemic issue. It is not just that there is a malice and breaking of the law. We are talking about line speeds moving so rapidly that the animals are treated like a commodity. We are talking about animals thought of as objects and

things and not living beings. You know, we heard from a couple——

Mr. KUCINICH. Would you—Dr. McGlone, would you agree with that?

Mr. MCGLONE. They are a commodity. I mean, beef, pork and poultry are commodities. That's—by definition that's what they are.

Mr. KUCINICH. Mr. Pacelle.

Mr. PACELLE. They are commodities after they are killed. They are not commodities while they are alive. I think that is the basic difference between——

Mr. KUCINICH. What about what Mr. Pacelle just said, they are commodities after they are killed, not when——

Mr. MCGLONE. I think maybe we're discussing different definitions of commodities. You can buy live hogs, live cattle on the commodity futures market and they are commodities. And at the same time, they are a living being that deserves respect.

Mr. KUCINICH. OK. Thank you.

Mr. Cummings. The Chair recognizes Mr. Cummings. Thank you.

Mr. CUMMINGS. Is it Pacelle?

Mr. PACELLE. Pacelle, yes, sir.

Mr. CUMMINGS. I was listening to your testimony in the back and, you know, I think I found very alarming, what you said about——what you first started off saying about the FDA—I mean——

Mr. PACELLE. The USDA.

Mr. CUMMINGS. Yeah. The Agriculture Department was saying one thing and doing another. Does—did that surprise you?

Mr. PACELLE. We have been—we have been fighting this issue of the abuse of downer cows for quite a while, Congressman Cummings, and in fact the House in I think it was June or July 2003 had a vote to stop slaughtering downer cows for human consumption, the concern being once—if they can't walk they are dragged or they are otherwise abused to get them into the kill box. But also they have a higher incidence of mad cow disease. And because they are wallowing in manure, they—and they are sometimes immunologically compromised, they have higher rates of E. Coli and salmonella.

So it is a food safety issue and a humane handling issue. The Congress defeated—the House—the Senate passed it. The House defeated it 199 to 202. You were with us on the vote and the chairman was with us on the vote. But there were Members of Congress from the livestock industry who said a sick animal can never get into the food supply, can never get into the food supply. We don't need this downer policy because we have a screen, trust the industry. It was 6 months later that we had a BSE positive, a mad cow positive animal get into the food supply and trigger a worldwide scare that closed more than 50 nations' markets to U.S. produced beef.

So when USDA finally got with the program and said that they were banning downers, but then to subvert it with a—with a notice to the inspectors to allow some downers to get into the food supply, I consider it a dishonest move.

Mr. CUMMINGS. So——

Mr. PACELLE. Thoroughly dishonest.

Mr. CUMMINGS. So that would be—that second—what do you call it, like a directive?

Mr. PACELLE. Yes.

Mr. CUMMINGS. That second directive I would take it because of all the things you just said, that is that it was a major concern of the Congress of whether to vote—clearly a lot of Congress was concerned about it, folks were concerned that we might have a situation where the industry would be seriously affected. I would take it would be reasonable to think that quite a few people up and down the Department of Agriculture knew about this. I mean, if you were to guess—I mean, make a reasonable guess.

Mr. PACELLE. Someone produced it. I mean, you know, USDA is a very, very in my view bureaucratic operation. People don't just go off and start writing notices without having superiors take a look at it. You know, I don't know if Secretary Ann Veneman knew about it, but somebody knew about it. And it clearly was at odds with the plain language of the Federal Register interim final rule that was one of the core reforms that USDA announced to address the enormous food safety scare that erupted after the first mad cow disease. You have to remember, contextually here we had seen a lot of people die in the United Kingdom and there were pyres, you know, there were cows that were killed and burned and enormous pyres. There was a major food scare, yet we have a subversion of their explicit rule. It really has come to light in the last few months after we did our investigation, another positive outcome of the investigation that we've forensically seen how USDA has handled this issue.

Mr. CUMMINGS. Is there a concern that maybe the government is too close to the industry? I mean, I heard what you said about you all—the Humane Society working with the industry, but at the same time doing your little investigations, and I also would like to know how you get access by the way. How does that work?

Mr. PACELLE. That was an employee based investigation. Our investigators sometimes seek employment and they work in the plant and they document what goes on. It is not known to management. It is an undercover investigation.

Mr. CUMMINGS. They take pictures and everything?

Mr. PACELLE. Yeah. There is a tiny little camera where the size of the lens is the size of the button on your shirt and he has a little trigger in the pocket and you can take footage. We make the cameras on our own and we want folks within industry to think that, well, there may be a Humane Society investigator, you better behave well and stop harming animals.

Mr. CUMMINGS. So you all—and you all—and they know—and they know that you all be doing these kinds of things; is that right?

Mr. PACELLE. They certainly know now. They certainly know now, yes, yes.

Mr. CUMMINGS. So we can have full disclosure here, you all plan to continue to do those things? I want everybody to hear whether you are or not. I want that out there.

Mr. PACELLE. Yeah, not just factory farm, but also abusive puppy mills, cockfighting arenas, other areas where there is systemic abuse of animals occurring or maybe not. You know, maybe a slaughter plant is complying and is—and, you know, there is lots

of legal activity. And if they are adhering to the law, then they have nothing to fear from an assessment of what is happening.

Mr. CUMMINGS. You know, when you think about—you were just mentioning a moment ago the idea of in Britain, in Great Britain of them having to burn—is that what you said—

Mr. PACELLE. Yeah.

Mr. CUMMINGS. All the cattle. I'm just wondering, do you think—when we think about the Agriculture Department putting out one set of rules and then come back and saying, no, this is exactly how you get around our rule, which is incredible to me, by the way, do you think that is driven—see, I'm trying to figure out what would be the—what would be the motivation for that? Because I think that is a critical question. You may have said it while I was out of the room.

Mr. PACELLE. No, we didn't get into this, Congressman. And I think it is an important point. I mean, we are not the first at the Humane Society of the United States to say that USDA and industry have too cozy an alignment. It is well discussed, many of the editorial writers who praised our investigation commented on the collusion between USDA and industry. Rosa DeLauro, who is Chair of Agriculture Appropriations, has a bill to put food safety functions outside of USDA, to have a more independent agency that doesn't have as its core mission the promotion of U.S.-produced agriculture commodities. I mean, USDA for years has pushed U.S. commodity purchases. I actually wrote my senior thesis in college about this issue of USDA really kind of constructing what the ideal diet was as a means of marketing the commodities that are being produced by the industry. And I think we have seen time and time again they have a food safety function, they have an animal welfare function, they have a commodity promotion production and commodity promotion has trumped these other concerns. And Senator Durbin has legislation to deal with this issue of protecting food safety. We would really like to see many of the animal welfare enforcement programs moved out of the USDA to a more neutral agency, like the Department of Justice or some agency that doesn't have a built in conflict because it is so close to the industry.

Mr. CUMMINGS. Yeah. So they have to promote. And so therefore with promotion logically comes protection. You have to protect what you are promoting.

Mr. PACELLE. I think, you know, many of the people who work in the agency come from the industry. It is their orientation, it is their world view. It may not always be a devious, you know, sort of scheme. It is just the orientation of the agency and the industry. It is just the historical pattern. It is inertia. And, you know, the folks who are part of that believe in what they are doing and animal welfare, food safety has not been their background for the most part.

Mr. CUMMINGS. This is my last question. I wonder if there is a—can you just explain to us a moment ago why it is that you don't want to have downer animals in your food chain? Is there a counter argument to that? Otherwise, I'm going back to what you just said. That you have people who may have been a part of the industry, then moves—I mean, may have been a part of the industry and then—the industry that moves the government—that moves the

government. I mean, I'm just wondering if—and they see these things going on, they become a part of the system. And I'm trying in my head to say, OK, is—are they saying that the government is crazy, the government is just too strict, the government should not—I mean, this is as an employee. The government—I mean, we are going to have all of this beef destroyed or whatever and this is good meat. Are there counter arguments to that?

Mr. PACELLE. Well, the argument of the folks who want to slaughter downers is that they say that vets onsite can distinguish between an animal who is ill, whose illness may then be transmitted to human consumer, versus animals that have an acute injury, say they have broken a leg, they got their leg caught in the grate in the truck. And they claim that they can make that distinction and why sacrifice that animal and the profit of the farmer because you can make \$600 or \$1,000 on the animal if you process the animal versus condemning the animal. That is their argument. Our argument in response is that a veterinarian—we heard today there is one veterinarian in the pen areas if we're lucky in some of these areas and some of the sizes—some of the volume of the animals we are talking are thousands a day. How is the veterinarian going to make a medical judgment about the animal's condition? What's more, if an animal does have a neurological problem like BSE, or mad cow disease, that may cause the animal to stumble and break a leg which isn't an acute physical injury. So how can you separate the physical injury from the neurological condition? It is too much to ask of these veterinarians to make this distinction.

Downers are a small piece of the industry. Temple Grandin here earlier today has said you can solve 90 percent of downer issues with humane handling practices. What happened at Hallmark/Westland was that we've genetically manipulated these cows to produce enormous volumes of milk. I mean, they are spent. These were spent dairy cows. They were Holsteins, these black and white cows. They were so spent that they could not walk very well. And those were the ones that were so battered and beleaguered, they were the ones they were trying to squeeze every last dime out of these animals. So they have given their life to produce milk and now we want to squeeze them a little bit more and make \$500 to slaughter them.

Mr. CUMMINGS. Doctor—

Mr. MCGLONE. I just want to add one bit of clarification. I don't necessarily disagree with what has been said, but there is more than one reason why an animal is a downer. And one of the major reasons is because they are tired, because they—they were an old animal or an animal that is finished with its productive life and it goes on a truck for a couple of hours ride. It gets to the plant, it has water but no food and it has to walk from here to there and it gets tired. And so it just stops. It lays down. So the position of people that look at that, the veterinarians and scientists, is that, well, if it doesn't have a bacterial or viral infection, if it doesn't have BSE and it is just tired, then why can't we just humanely slaughter it and put it in the food supply.

Mr. CUMMINGS. Well, you know, I'm not—I don't know a lot about farms because I have lived in the city all my life. But I assume that—and correct me if I'm wrong—if you have—I mean, do

they let these animals get old? I mean—in other words, I thought—I just assumed——

Mr. PACELLE. You're so right, Congressman. I mean, No. 1, the definition of a downer—to take issue with Dr. McGlone—is an animal who cannot rise from a recumbent position. If they are tired and then they get up, then they are not a downer anymore. But your point is correct. I mean, the beef cattle are slaughtered at a relatively young age. The dairy cows are not particularly old in the sense of aged. But they are just spent because they have been milked so much and they have been—they have been genetically manipulated to produce enormous volumes of milk. And their body just breaks down to some degree.

Mr. MCGLONE. Congressman, I would be delighted to take you on a tour if you'd like to see modern agriculture, if you'd like to know more about where your food comes from. The problem is if they are spent—and it is kind of an old term. But there is nothing particularly wrong with the meat, though. And right now we have a situation in this country where the price of feed stuffs are very high, as I'm sure you know. The price of corn and so on and the price of meat and milk is going up dramatically. And if you take this food off the market, the price of food will go up even more and the only people that hurts is the poor people.

Mr. PACELLE. You know, this is such——

Mr. KUCINICH. Excuse me. Maybe my colleague wants to respond to that comment and then I want to respond to it.

Mr. CUMMINGS. I was kind of—I tell you, I'm surprised you said that.

Mr. MCGLONE. Really?

Mr. CUMMINGS. So what you are saying—you know, when I was a little boy, I remember, Doctor, going to the store—we used to have these little neighborhood stores. This is the inner, inner, inner, inner, inner city of Baltimore. You know what they used to do, Doc? I remember this like it was happening today. I was like 8 or 9 years old.

Mr. MCGLONE. I'd like to know.

Mr. CUMMINGS. What they'd do is they would have meat in the corner—these little corner stores—have meat in the corner and they'd shine a red light on the meat to make it look fresh. And these were poor neighborhoods. So I guess what you are saying to me is that the only people that are getting—might be getting this downer meat is poor people? Is that what you're saying? That's not what you are saying, is it?

Mr. MCGLONE. I didn't actually say that.

Mr. CUMMINGS. I know. I didn't say you did. I asked you if you did.

Mr. MCGLONE. Well, I did not say that. But let's examine that for a second. Where do you think, you know, old dairy cows go?

Mr. CUMMINGS. I don't know. Tell me.

Mr. MCGLONE. They go to hamburger.

Mr. PACELLE. They go to the school lunch program is where they go. They give the lowest grade product to the schools and they give it to kids who would not be able to withstand the effects of salmonella and E. Coli as much. This was the No. 2 supplier to the

National School Lunch Program, Hallmark/Westland, that we investigated.

No. 2, 55 million pounds of ground beef went to the school lunch program. That's where it goes.

Mr. MCGLONE. These downer animals are not the steak you eat in a fancy steak place.

Mr. KUCINICH. Will the gentleman yield?

Mr. CUMMINGS. I yield.

Mr. KUCINICH. The witness who speaks to the fact that this meat that was a result of—that we learned about through this undercover investigation was going to the School Lunch Program is not a small matter. The gentleman raised a question that if they start sorting out as all downer, everything identified as a downer, that could have an effect on increasing the price of meat, is that what you're saying?

Mr. MCGLONE. Yes.

Mr. KUCINICH. Would the gentleman agree that poor people are entitled to the highest quality product?

Mr. MCGLONE. Yes.

Mr. KUCINICH. I just wanted to make sure we establish that.

Mr. MCGLONE. Yes. I agree.

Mr. PACELLE. I dispute the notion on your economics, to be quite honest, that when USDA did restrict downers in 2004, not to the extent that it claimed it was, is they still are allowing downers into the food supply. No economist that I'm aware of said that we would have higher meat prices in the store as a consequence of the downer ban.

Mr. KUCINICH. I want to ask Dr. McGlone, under any circumstance, would you hesitate to yourself personally eat meat that came from a downer; under all circumstance, you wouldn't have any hesitation to eat meat that came from a downer?

Mr. MCGLONE. I couldn't say under all circumstances.

Mr. KUCINICH. So some downers are different?

Mr. MCGLONE. The ones that have BSE are different or the ones that might have salmonella or the ones that——

Mr. KUCINICH. But the point is that sorting these downers out isn't always an easy thing to do; isn't that correct?

Mr. MCGLONE. No. It is a good thing to do.

Mr. KUCINICH. What does the precautionary principle say here?

Mr. MCGLONE. Yeah. It's a good thing to sort them out.

Mr. KUCINICH. But let's talk about what would the prudent person do.

Mr. MCGLONE. If you're not sure, you should segregate it, which is what happens now.

Mr. PACELLE. Isn't that what Mr. Pacelle is advocating?

Mr. MCGLONE. He is advocating, if I understand it right, not only segregating it, but not including it in the food supply. And what I am suggesting is that if you segregate it and then evaluate it for the safety of the product, that is—that is an acceptable——

Mr. PACELLE. And how do you evaluate BSE in a pen area and——

Mr. MCGLONE. Well, you can't until the animal is dead and you have——

Mr. KUCINICH. I want to go back to Mr. Cummings here. But there are some things that are problematic clinically in terms of how something presents because—are they not? I just want to make sure that the perspective that is being offered here is one that to you, Dr. McGlone, based on your experience is plausible.

Mr. MCGLONE. Which part is plausible?

Mr. KUCINICH. Plausible that Mr. Pacelle's perspective about downers with respect to food safety issues—

Mr. MCGLONE. Yes. When the animal goes down and—before it can be consumed, there must be other things that happen. It must be observed live and it must be observed in carcass form. And in the case of the recent issue, that didn't happen. There wasn't a second inspection before the animal went into the food supply.

Mr. KUCINICH. Mr. Cummings. Go ahead, Mr. Cummings.

Mr. PACELLE. American Humane doesn't support a no downer policy.

Mr. MCGLONE. Actually I'm not sure what their policy is on downers.

Mr. PACELLE. It would be the only humane organization that departs from that policy.

Mr. KUCINICH. Which is? Excuse me, Dr. McGlone. Do you want to state your policy? Yes.

Mr. PACELLE. We have an unambiguous policy that animals who cannot get up, cows and pigs who cannot get up from a recumbent position for humane handling purposes as well as food safety should not be funneled into the food supply for the very reasons that we documented at the Hallmark plant that animals were kicked, they were—they had electricity put on their eyes and their anus, they were rammed with a forklift, they had high pressure water put in their nostrils and mouth to simulate a drowning effect. And the USDA inspector was there for 2 or 3 hours a day; 2 or 3 hours a day.

Mr. KUCINICH. It was USDA approved?

Mr. PACELLE. They weren't present to make judgments. And they were approving 35 or 40 animals—you know, the animals were that far away to the wall and they were making a visual inspection of 35 or 40 animals in a spot. The USDA inspector would approve the animals if they could stand.

Mr. KUCINICH. But the animals that you just described and the conditions that they were in, they were ultimately approved by the USDA. They had that—

Mr. PACELLE. If the animal could stand, they were all approved.

Mr. KUCINICH. OK.

Mr. PACELLE. This notion that somehow there was some medical evaluation of the animals is entirely false.

Mr. KUCINICH. Mr. Cummings.

Mr. CUMMINGS. The only thing—I just leave with this, that I—you know, I just think—when I think about health and safety, it is just so many ways that you can—that we can bring harm to people in this country and anybody who might consume. And we see it in all kinds of stuff. Right now, we are working on an issue with toys and lead. It just seems to me—I just want to encourage the Humane Society to continue to do what you do. Sometimes I think we have to have—and I'm not—I mean, if there are other societies

that do the same thing, God bless them. Because we have to have—when government fails we have to have these types of organizations to put a light in some of these dark corners. Because if we don't have them, we are in trouble. We are like—it is like a train going down the track about to run into another train, period. And I think that if the American people knew that our—and see, this is a piece that a lot of people miss. People are paying taxes for certain protections. That is what they pay taxes for. I mean, that is why—I mean, when people talk about—you know, I always hear people say things like why do we need government? You know, what are my taxes being used for? Well, I don't need government. This is why you need government, right here. This is a perfect example. But when you are paying for something and you're not getting it, that is a problem, particularly when it comes to stuff that you're putting in your body. I mean, that is incredible.

And so I just—I don't—I think, Mr. Chairman, I don't know all the answers but one thing I do know is that I think this hearing has certainly opened up my eyes to a lot of things I didn't know about this whole industry and what is going on here. And it is so easy for people to say that things don't matter. And as soon as something happens, then suddenly it matters. And it is easier for people to say things don't matter as long as it is affecting negatively somebody else. But as soon as it affects you, then suddenly it matters, you're on the morning shows and you have folk interviewing you.

So I just hope that some kind of way this hearing and things like this will cause folk begin to do their jobs. Did you have something to say, Mr.—

Mr. PACELLE. Thank you for the comments. You know, I do think you said it before. I mean, there are people who will take a shortcut. For whatever reason, they want to—they want a shortcut and that is why there needs to be some oversight in this area, precisely for the reason that you said. And here with food, we are dealing with food safety issues that affect every one of us, children, elderly and everyone in between, and we are also affecting the lives of these animals. These animals have the same spark of life that we have. They want to live just as much as we want to live. They don't want to suffer. But there are people who just think of them as things, and they will do whatever they wish to them because they have the power to do so.

So someone has to come in, whether it is the Congress or others, and say, hey, we need some limits in society. We need some restraints, because an unfettered market where animals are just treated as commodities is not acceptable.

Mr. KUCINICH. I think this is a good point for us to give our third panelists an opportunity to enter into this discussion and ask if it is possible that the technology that you presented to this committee can capture what is happening in the area of a slaughterhouse or a meat packing plant?

Mr. ARONSON. Thank you for the question. You know, I'll point back to the experiences that we have had with FPL Food, which is a cattle slaughter plant down in Augusta, Georgia, and does about 1,200 cattle a day. So it is categorically a medium to large company in terms of volumes. And the methodology that we have

employed, which I outline in the written testimony and talk a little bit about in the oral testimony, is a combination of random sampling with remote video auditing and continuous employee feedback. That is really the most important thing I would tell anybody about video. If you just put cameras in and you expect them to affect employee behavior, they are really not going to do much of anything. If you do employ a very progressive and regular, continuous feedback stream to the plant, focusing mainly on the supervisors that run these areas, we found not just in this industry, but in many industries that you can have a very quick and sustained impact on outcomes and employee behavior.

Mr. KUCINICH. Is the video only in realtime or is it possible to go back in time to review previous days, weeks, months?

Mr. ARONSON. It is both.

Mr. KUCINICH. So it is an archive?

Mr. ARONSON. Yeah. And I think, you know, a lot of the discussion on this panel and in previous panels is around the issues of downers and identifying them. And first of all, they don't happen very often. So they are hard to find in general and we use in a lot of our industry still picture technology, where we can go back in time and look at, say, a 30-minute window of time across 16 pictures which would each be 2 minutes apart. And the theory being is that if there is a 1,000-pound cow that can't move, it is not going anywhere in 2 minutes. So we are able to very quickly identify within a 30-minute window if there has been a downer animal. And what we do with that PL—and there is some other companies that are coming on board now with this program due to the work done by the Humane Society whereby on a 24/7 basis we are every 30 minutes looking at the video. And if we see any downers we notify the plant immediately and send them an e-mail with a link to the video so that they can do their own examination. Because it really is a needle in the haystack and what was interesting to us—and I didn't know this at the time. I wasn't aware of the volume of overnight delivery of cattle and most of our pre-existing services were random live sampling during the day, during the operations hours. And when we were able to look at the still imagery on the overnight shifts, it was very clear that there would be a lot of value there. So that is why we—you know, we moved away from just a live sampling model to a retroactive model.

Mr. KUCINICH. Thank you very much. I wanted to thank each of the panelists for your participation. This has been a very important discussion. I think, you know, with Mr. Aronson's participation it was important from the standpoint of providing a perspective of a possible technological solution.

The exchange between Mr. Pacelle and Dr. McGlone has been important because, you know, this committee is trying to provide opportunities for give and take on these issues so that we can come to an understanding of the approach that we'll take in recommending some legislative improvements or some policy directions that will be important to USDA or any other relevant agency.

So this has been a hearing of the Domestic Policy Subcommittee of the Oversight and Government Reform Committee. The title of this hearing has been "After the Beef Recall: Exploring Greater Transparency in the Meat Industry."

We have had three panels and we began at 1. It is now 6. The witnesses who are here were here at the beginning. I want to thank you for your patience and your participation. I want to thank Mr. Cummings for staying with us throughout this hearing and also for the staff that supported our efforts here, and for Mr. Issa's participation.

We do work in a bipartisan way. We are going to maintain an active oversight on this area, with the mind to not simply looking at the industry as it may have its difficulties and trying to expose them if necessary, but also looking at some solutions that could provide for more humane practices. So—and for more, you know, food safety.

So thank you, all of you, and there being no further business before this committee, we stand adjourned. Thank you.

[Whereupon, at 6 p.m., the subcommittee was adjourned.]

